navigation of said Mississippi River, and the protection of its alluvial lands, and had directed him to report the same back to the House with sundry amendments.

Mr. ROBERTSON demanded the previous question on the bill and amendments.

The previous question was seconded and the main question ordered.

And then, on motion of Mr. ROBERTSON, (at ten o'clock and forty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

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

By Mr. BURDICK: The petition of L. B. Stevens and 35 others, citizens of Jesup, Iowa, for the protection of innocent purchasers of patented articles—to the Committee on Patents.

By Mr. DEERING: The petition of the ladies of Janesville, Iowa, for such legislation as will make effective the anti-polygamy law—to the Committee on the Judiciary.

By Mr. EVANS, of Pennsylvania: The petition of Lewis Blundin, for a pension—to the Committee on Invalid Pensions.

Also, the petition of Edward H. Mitchell, of similar import—to the same committee.

By Mr. FORT: Papers relating to the claim of Captain Allen Harper—to the Committee on War Claims.

By Mr. HARRIS, of Massachusetts: The petition of Mrs. Lizzie A. Whitehall and 20 other women, of Attleborough, Massachusetts, for the enforcement of the laws against polygamy—to the Committee on the Judiciary.

Also, the petition of Mrs. Anna E. Richardson and other women, of East Bridgewater, Massachusetts, of similar import—to the same committee.

Also, the petition of Frances Holmes and 93 other women, of Easton, Massachusetts, of similar import—to the same committee.

Also, the petition of Mrs. Mary G. Clark and 107 other women, of South Weymouth, Massachusetts, of similar import—to the same committee.

By Mr. HEWITT, of New York: The petition of citizens of New York, for the interchange of subsidiary coin for legal-tender notes—to the Committee on Coinage, Weights, and Measures.

Also, the petition of the National Cigar-Makers' Association, against the use of coupon stamps—to the Committee of Ways and Means.

By Mr. MAJORS: Memorial and joint resolution of the Nebraska Legislature, favoring the passage of Senate bill No. 780, extending the provisions of the acts of March 2, 1855, and March 3, 1857, relative to swamp and overflowed lands, to new States—to the Committee on Public Lands.

By Mr. MONEY: The petition of citizens of North Mississippi, for the transfer of Lowndes, Clay, Oktibbeha, Noxubee, and Winston Counties from the northern (Federal court) district of Mississippi to the southern (Federal court) district of said State—to the Committee on the Judiciary.

By Mr. O'NEILL: The petition of the Philadelphia Board of Trade, that, in addition to the usual appropriations for the signal service, $5,000 be appropriated for establishing and maintaining a signal station on the Delaware breakwater—to the Committee on Appropriations.

Also, resolution of the Philadelphia Board of Trade approving Senate bill No. 1561, for the interchange of the subsidiary silver coins and United States notes, and urging its early passage—to the Committee on Banking and Currency.

By Mr. REA: The petition of F. M. Mahan, of Saint Joseph, Missouri, for an appropriation for two steam circular sand-bar dredges to be used on the Mississippi River and tributaries—to the Committee on Commerce.

By Mr. REED: The petition of Charles A. Dyer & Co. and others, citizens of Portland, Maine, for the abrogation of the provisions of the treaty of Washington relating to fisheries—to the Committee on Foreign Affairs.

By Mr. RICE, of Ohio: The petition of Caroline R. Dulany, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. SAMPSON: The petition of Mrs. Rev. A. C. Keeler and 23 other women, of Beacon, Iowa, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. SHALLENBERGER: The petition of 70 women, of Harlansburgh, Pennsylvania, of similar import—to the same committee.

By Mr. SINNICKSON: The petition of Sarah G. Ware and others, of Salem, New Jersey, of similar import—to the same committee.

By Mr. STRAIT: The petition of Mrs. E. E. Countryman, Mrs. H. Hillman, and other ladies, of Hastings, Minnesota, of similar import—to the same committee.

By Mr. TIPTON: Joint resolution of the Legislature of Illinois, recommending an appropriation for the completion of the Chicago custom-house and post-office—to the Committee on Appropriations.

By Mr. TURNEY: The petition of ladies of the Presbyterian church of New Alexandria, Pennsylvania, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

IN SENATE.

WEDNESDAY, *February* 5, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

THE JOURNAL.

The Journal of yesterday's proceedings was read.

Mr. DAVIS, of West Virginia. I notice in the reading of the Journal, and I ask the attention of the Senator from Maine, [Mr. HAMLIN,] that the reason why he asked unanimous consent to have his name recorded in the vote in executive session is not given. The fact that recording his vote would not make any difference in the result is not stated. I ask the Senator from Maine whether he did not make such a statement.

Mr. HAMLIN. I did.

Mr. DAVIS, of West Virginia. Would he not prefer to have that entered in the Journal?

Mr. HAMLIN. I did state distinctly that it would not change the result.

The VICE-PRESIDENT. The Chair remembers it very well, and the Journal will be changed accordingly.

Mr. HAMLIN. Let it be done.

CREDENTIALS.

The VICE-PRESIDENT presented the credentials of JOHN P. JONES, chosen by the Legislature of Nevada a Senator from that State for the term beginning March 4, 1879; which were read, and ordered to be filed.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a letter of the Chief of Engineers, submitting a preliminary report of Major C. R. Suter, Corps of Engineers, upon the survey of the Missouri River from its mouth to Sioux City, Iowa, in accordance with the river and harbor act of June 18, 1878; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with section 232 of the Revised Statutes, an abstract of the militia force of the United States; which was referred to the Committee on Military Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. DAVIS, of Illinois. I present a joint resolution of the Legislature of Illinois, in favor of an appropriation by Congress for the construction of a life-saving station at Waukegan, in that State. I ask that it be read.

The VICE-PRESIDENT. The resolution will be reported.

The resolution was read, and referred to the Committee on Commerce, as follows:

Whereas it is of paramount importance to the people of this State that the river and lake advantages within and adjacent to its boundaries be kept in proper condition for the carrying on of commercial enterprises between the citizens of this State and other States and counties; and

Whereas this State is possessed of many miles of frontage on Lake Michigan, one of the great lakes of North America, affording the commerce of this State an outlet through the great water highway to the Atlantic seaboard; and

Whereas there are many points of danger to navigators on said lake frontage, and some points which could by a small outlay of money be made commodious and safe harbors for lake shipping aside from the port of Chicago; and

Whereas the people of the northwestern portion of this State are now petitioning Congress, asking for an appropriation from the General Government for the construction of a harbor and life-saving station at Waukegan, in Lake County, in this State, said harbor having formerly been of great advantage to the agricultural interests of the people in said locality as furnishing a means of shipping produce direct to the markets of the east, but having of late fallen into disuse on account of the formation of sand-bars at the mouth of Waukegan River, and many serious accidents have within the last few years occurred at said place to our lake shipping: Therefore,

Be it resolved by the senate of the State of Illinois, (the house of representatives concurring herein,) That our Senators in Congress be instructed and our Representatives be requested to obtain from the General Government an appropriation for the construction of a harbor and life-saving station at Waukegan, in this State.

Resolved, further, That the secretary of state is hereby instructed to send certified copies of these resolutions to each of our Senators and Representatives in Congress assembled.

ANDREW SHUMAN,
President of Senate.
WILLIAM A. JAMES,
Speaker House of Representatives.

Mr. MATTHEWS presented the petition of Anna L. Cowan and sundry other ladies, of Oxford, Butler County, Ohio, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. KERNAN. I present a concurrent resolution passed by the Legislature of the State of New York, in favor of an appropriation by Congress to remove obstructions in Saint Mary's River, connecting Lake Superior and Lake Huron, in the Saint Clair River, connecting Lake Huron and Lake Saint Clair, and in the Detroit River, connecting Lake Saint Clair and Lake Erie. I ask that it be read and referred to the Committee on Commerce.

The VICE-PRESIDENT. The resolution will be reported at length.

The resolution was read, and referred to the Committee on Commerce, as follows:

STATE OF NEW YORK,
IN ASSEMBLY, *Albany, January* 28, 1879.

Whereas the obstructions in Saint Mary's River, connecting Lake Superior and

Lake Huron, and in Saint Clair River, connecting Lake Huron and Lake Saint Clair, and in Detroit River, connecting Lake Saint Clair and Lake Erie, are an insuperable bar to vessels of large draught; and

Whereas an effort is being made to secure an appropriation for improving the communication between those lakes, whereby the cost of moving the products of the West by the northern water-way will be much lessened: Therefore,

Resolved, (*if the senate concur*,) That the Representatives in Congress from this State be, and are hereby, requested to aid in securing an appropriation for such purpose.

—

STATE OF NEW YORK,
IN ASSEMBLY, *January* 28, 1879.

The foregoing resolution was adopted.
By order of the Assembly:

EDWARD M. JOHNSON, *Clerk*.

—

IN SENATE, *January* 30, 1879.

Concurred in without amendment.
By order:

JOHN W. VROOMAN, *Clerk*.

Mr. BECK presented the petition of Mrs. Catharine Barclay, widow of George W. Barclay, a private in the Maryland Volunteer Militia during the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. GARLAND presented the memorial of Hughes & Naulty, wholesale druggists, of Little Rock, Arkansas, remonstrating against the removal of the duty on sulphate of quinine; which was referred to the Committee on Finance.

Mr. DENNIS presented the petition of Thomas J. Hitch, of Wicomico County, Maryland, praying to be allowed a pension for services rendered during the late war; which was referred to the Committee on Commerce.

Mr. CONOVER presented a joint resolution of the Legislature of Florida, in favor of an appropriation by Congress to provide for the erection of a marine hospital at Cedar Keys, in that State; which was referred to the Committee on Appropriations.

Mr. HAMLIN presented a communication from the Secretary of State, containing information in regard to the affairs of Bayard Taylor, deceased, late minister to Germany; which was referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. OGLESBY. I present a joint resolution of the General Assembly of the State of Illinois, instructing its Senators and requesting its Representatives in Congress to take steps for securing an appropriation by Congress for the purpose of constructing a harbor and life-saving station at Waukegan, in Lake County, in that State. Although the resolution is in the nature of an instruction to the Senators from that State, I yet feel that the Legislature evidently meant that the full effect of the joint resolution should be felt in Congress. I ask, for the purpose of bringing the subject before the Committee on Commerce and before the Senate, that the joint resolution be accepted as being in the nature of a memorial, and referred to that committee.

The VICE-PRESIDENT. The Chair will inform the Senator that his colleague has presented and had read at length a duplicate of the memorial he now submits.

Mr. OGLESBY. I so understand.

The VICE-PRESIDENT. The memorial will be referred to the Committee on Commerce.

Mr. HOAR presented the memorial of Francis Gregory Sanborn, consulting naturalist, Boston, and other entomologists, citizens of Massachusetts, in favor of the purchase by Government of the entomological works, plates, &c., of Professor Townend Glover; which was referred to the Committee on Agriculture.

Mr. COCKRELL presented the petition of F. M. Mahan, of Saint Joseph, Missouri, praying for an appropriation of $100,000 for dredging, in accordance with his plan, by means of the steam sand-bar dredger, on the Mississippi River and its tributaries; which was referred to the Committee on Commerce.

Mr. MATTHEWS presented the petition of Henry Read, of Ohio, praying for the passage of a special law giving to his son, William H. Read, a clear title to one quarter section of public land, waiving the requirement of one year's residence thereon; which was referred to the Committee on Military Affairs.

Mr. MORGAN. I present a joint resolution of the General Assembly of Alabama, in favor of such legislation as may be necessary to prevent the exercise of jurisdiction by United States courts in certain proceedings against municipal corporations in the several States; which I ask to have read.

The Secretary read as follows:

Joint resolutions of the General Assembly of Alabama, requesting our Senators and Representatives in Congress to urge the enactment of such laws as may be necessary to prevent the exercise of jurisdiction by the courts of the United States in certain proceedings against municipal corporations in the several States.

Whereas municipal corporations, namely, counties, cities, and towns as organized in the State of Alabama and in other States, are integral parts of the State itself, and of the government thereof, and in so far as such corporations exercise power, particularly the power to levy taxes, such power is part and parcel of the sovereign authority of the State in its highest prerogative; and

Whereas by the eleventh article of the Constitution of the United States, which declares "that the judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign state," it was especially designed to protect the States and State governments against any interference or control by the Federal judicial power in the exercise of their reserved rights; including the taxation of their citizens, for any purpose other than Federal purpose; and

Whereas the jurisdiction asserted by the courts of the United States, in suits against municipal corporations, to compel such corporations by writ of mandamus to exercise the sovereign power of levying taxes, thereby subjecting the officers of such corporations, who should be responsible alone to State authority, to the control of the Federal judicial power, and thus invading the exclusive jurisdiction of the State over its own officers, in a matter which is the highest attribute of sovereignty, is, in the opinion of this General Assembly, opposed to the spirit and purpose of the Constitution, and especially of the clause above mentioned, and is an improper and unseemly interference by the Federal judicial power in the exercise of the taxing power, vested by the States in such integral parts of the State government; and

Whereas the continued exercise of such jurisdiction will doubtless lead in the future, as it has in the past, to unseemly conflicts between Federal and State authority, detrimental to that respect for law and established authority which is the foundation of society and free government; and

Whereas this General Assembly observes, with great joy, an increasing respect and reverence throughout the land for the form of government established by the fathers, and believe that it is the paramount will of all the people that this form of government shall be maintained in its true spirit, intact forever, and to accomplish this purpose the harmonious co-operation of State and Federal authority under the Constitution of the United States is indispensable: Therefore,

Be it resolved by the General Assembly of Alabama, That our Senators in Congress and our Representatives be requested to urge the enactment of such laws as may be necessary to prevent the exercise of jurisdiction by the courts of the United States in proceedings against municipal corporations in the several States in the manner complained of.

Resolved, That the governor be requested to forward a copy of the foregoing preamble and resolution to the Senators and to each of the Representatives from this State in Congress.

Resolved, That the governor be requested to forward a copy of the foregoing preamble and resolutions to the governor of each of the several States, with the request that the same be laid before the General Assembly of such State for such action as may be deemed expedient.

W. G. LITTLE, JR.,
President of the Senate.
DAVID CLOPTON,
Speaker of the House of Representatives.

Approved, January 25, 1879.

R. W. COBB, *Governor.*

Mr. MORGAN. I move the reference of the resolutions to the Committee on the Judiciary.

The motion was agreed to.

PRINTING OF A COMMUNICATION.

Mr. SARGENT. I have in my hand a letter from the Secretary of the Navy in reference to the bill (S. No. 1684) to regulate promotion in the Navy, and for other purposes, which was directed to the Committee on Naval Affairs. I move that it be printed for the use of that committee.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. MAXEY, from the Committee on Military Affairs, to whom was referred a letter of the Secretary of War, transmitting various petitions of officers of the Fifth United States Infantry praying reimbursement for losses incurred by the sinking of the steamer J. Don Cameron, submitted a report thereon accompanied by a bill (S. No. 1769) for the relief of sufferers by loss of the Government steamer J. Don Cameron.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. HARRIS, from the Committee on Claims, to whom was referred the bill (H. R. No. 799) for the relief of Paul McCormick, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. SARGENT. The Committee on Naval Affairs, to whom were referred so much of the report of the Secretary of the Navy as relates to the removal of the Observatory, and the report of the commission appointed under our legislation of last session, have instructed me to report a bill upon the subject and recommend its passage.

The bill (S. No. 1770) authorizing the purchase of a site for the location of a new naval observatory, the erection of necessary buildings thereon, the removal of the present Naval Observatory, and for other purposes, was read twice by its title.

Mr. SARGENT, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1738) to restore Assistant Paymaster Nicholas H. Stavey to the active from the retired list of the Navy, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. COKE, from the Committee on Indian Affairs, to whom was referred the bill (H. R. No. 3825) for the relief of Susanna Marble and others, heirs of Abel S. Lee, reported it without amendment, the committee adopting the report of the House Committee on Indian Affairs.

Mr. WITHERS. I am instructed by the Committee on Pensions to report back adversely the petition of Henry S. King, late second sergeant Company B, Second Regiment Missouri Mounted Riflemen, under Colonel Price in the Mexican war, praying for a pension, no application having been made to the Pension Bureau.

The VICE-PRESIDENT. The committee will be discharged from the further consideration of the petition.

Mr. KIRKWOOD. The Committee on Pensions, to whom was referred the bill (S. No. 1456) granting a pension to Abram F. Farrar, have instructed me to report it adversely, for the reason that the claimant has not made application to the Pension Bureau.

The VICE-PRESIDENT. The bill will be indefinitely postponed.

Mr. ROLLINS. I am instructed by the Committee on the District of Columbia, to whom was referred the joint resolution (H. R. No. 229) making an appropriation for filling up, draining, and placing in good sanitary condition the grounds south of the Capitol along the

line of the old canal, and for other purposes, to report it favorably, without amendment; and I ask for its present consideration.

The VICE-PRESIDENT. Is there objection?

Mr. DAVIS, of West Virginia. Let it be read for information.

The Secretary read the joint resolution.

The VICE-PRESIDENT. Is there objection to the present consideration of the joint resolution?

Mr. SAULSBURY. I should like to inquire, before it is taken up, whether this matter has been fully considered by the committee, and whether any plan for the improvement of the river front has been agreed upon. I wish to know whether we are asked to vote this money merely to let them go on with an experiment, or whether some definite plan has been agreed upon for the improvement of the river front.

Mr. ROLLINS. The joint resolution has been agreed to by the committee, but no definite plan has been submitted to my knowledge to the committee, neither has that matter been thoroughly examined by the Committee on the District of Columbia. But the District commissioners represent that such an appropriation is very much needed to give employment to the poor in the District, and I have no doubt they have the proper plan with which to carry on this work.

Mr. SAULSBURY. I certainly should not oppose an appropriation for this purpose if there had been some plan by competent persons agreed upon for the improvement of the river front; but if it is merely an experiment, to take the money out of the public Treasury for the purpose of experimenting, I think we had better not do it very hastily. I therefore think the joint resolution had better go over.

The VICE-PRESIDENT. The consideration of the joint resolution is objected to.

Mr. DORSEY. I hope the Senator from Delaware will not object. The object of the expenditure of this money is primarily for the employment of the suffering poor of this District. It is to be expended in filling up the old canal, requiring no plan whatever. It is to fill up a cess-pool that has been a disgrace and a damage to a large part of Washington for the last half century.

Mr. SAULSBURY. I think the joint resolution had better go over. We have been expending a very large amount of money in this District, and there has been very great complaint of the wastage of that money. I think we had better know a little of what we are about before we undertake to appropriate money in this way.

Mr. DORSEY. Mr. President——

The VICE-PRESIDENT. An objection carries the joint resolution over.

Mr. DORSEY. Then I give notice that I shall call it up to-morrow morning.

Mr. BAILEY, from the Committee on Pensions, to whom was referred the bill (H. R. No. 1443) granting a pension to William Gibson, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. McMILLAN. The Committee on Claims, to whom was referred the petition of Alexander R. Shepherd, praying for an appropriation for the payment of the rent of certain premises used and occupied by the Government for the use of the Post-Office Department, have instructed me to report it back and ask that the committee be discharged from the further consideration of the petition. This is done without any consideration whatever of the merits of the claim by the committee.

The VICE-PRESIDENT. The committee will be discharged from the further consideration of the petition.

Mr. McMILLAN. The petitioner desires to have leave to withdraw the papers, under the standing rule of the Senate.

The VICE-PRESIDENT. It is so ordered, under the condition imposed by the rule.

Mr. CAMERON, of Wisconsin. The Committee on Claims, to whom was referred the bill (H. R. No. 3857) for the relief of Robert Warner, have instructed me to report adversely upon the bill. The Senator from Maryland [Mr. WHYTE] has some interest in this bill and he desires that it be placed on the Calendar.

The VICE-PRESIDENT. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. VOORHEES, from the Committee on Pensions, to whom was referred the bill (H. R. No. 4683) granting a pension to Michael O'Brien, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 4972) restoring Mary J. Stover to the pension-roll, reported adversely thereon; and the bill was postponed indefinitely.

Mr. BRUCE, from the Committee on Pensions, to whom was referred the petition of Nancy M. Richmond, praying that she be granted a pension, reported adversely thereon; and the committee were discharged from the further consideration of the petition.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 6159) granting a bounty-land warrant to Elisha Franklin, a survivor of the war of 1812, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BAYARD, from the Committee on Finance, to whom was referred the bill (H. R. No. 1326) for the relief of Samuel B. Stauber and others, reported it with amendments.

Mr. BUTLER, from the Committee on Military Affairs, to whom was referred a letter of the Secretary of War, recommending an appropriation to reimburse James Burke, superintendent of the National Cemetery at Salisbury, North Carolina, submitted a report thereon accompanied by a bill (S. No. 1771) for the relief of James Burke.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. BOOTH. Yesterday I reported in favor of the bill (S. No. 1714) for the relief of the State University of California, and for other purposes. I ask leave now to file a written report.

The report was ordered to be printed.

RECOMMITTAL OF A BILL.

On motion of Mr. BURNSIDE, it was

Ordered, That the vote postponing indefinitely the bill (H. R. No. 3863) for the relief of Nathaniel G. Smith be reconsidered, and that the bill be recommitted to the Committee on Post-Offices and Post-Roads.

BILLS INTRODUCED.

Mr. BUTLER (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1772) to provide for the further distribution of the Geneva award; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. LAMAR asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1773) to amend section 4988 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

AMENDMENTS TO BILLS.

Mr. MITCHELL, Mr. PLUMB, and Mr. WALLACE submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 5218) to establish post-routes herein named; which were referred to the Committee on Post-Offices and Post-Roads.

Mr. FERRY. I have an amendment, which is intended to be submitted to the post-office appropriation bill, respecting the pay of letter-carriers. I move that it be printed, and referred to the Committee on Appropriations.

The motion was agreed to.

Mr. McDONALD. I submit an amendment to be proposed to the bill (S. No. 1330) to quiet title of settlers on Des Moines River lands in the State of Iowa, and for other purposes. The bill is on the Calendar, and the Committee on Public Lands have directed me to report this amendment.

The VICE-PRESIDENT. The amendment will be printed.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had yesterday approved and signed the following acts:

An act (S. No. 351) for the relief of the domestic and Indian missions and Sunday-school board of the Southern Baptist convention;

An act (S. No. 1135) to create an additional land district in the Territory of Idaho; and

An act (S. No. 1662) making an appropriation for the purchase of a site, and for the erection thereon of a military post, at El Paso, Texas.

JAPANESE INDEMNITY FUND.

Mr. WALLACE. I move that the bill (S. No. 742) in relation to the Japanese indemnity fund be made the special order for Monday next after the morning hour.

Mr. CONKLING. What is the bill?

Mr. WALLACE. It is the bill in relation to the Japanese indemnity fund, which has been on the Calendar, reported from the Committee on Foreign Relations, since May 14 of last year.

Mr. ANTHONY. Say at half past one o'clock, instead of "after the morning hour."

Mr. WALLACE. At half past one. I accept the suggestion.

The VICE-PRESIDENT. The question is on the motion of the Senator from Pennsylvania.

Mr. CONKLING. I do not think we ought to make a special order of any bill. It is too late in the session, and there are too many other things which may stand in the way. If the Senator from Pennsylvania will give notice that on that day, at that hour, he will move to take up the bill, I submit to him he will accomplish all that he ought to accomplish by this motion.

Mr. WALLACE. The suggestion of the Senator is very kindly, but we must meet the question of whether the Senate will consider the bill at some period, and we may as well meet it now as at any other time. The House committee has reported a bill almost identical with the Senate committee's bill, and if this bill can be taken up and passed it will pass the House. If it be postponed for a much longer period of time it cannot pass the House. I am not in a position to ask the Senate to take it up to-day, because it naturally will give rise to debate; but the bill is one that appeals to the sentiment of the country, and it ought to be taken up and considered. It involves the credit of the country; and it seems to me the Senate ought to fix a time for its consideration. I have no interest in it, nor have, I think, my constituents. It comes from one of the leading committees of the body, and the Senate, it seems to me, ought to fix a time for its consideration.

Mr. CONKLING. I would not like my suggestion to be construed into opposition to the bill named by the Senator from Pennsylvania. I make it without reference to the merits of that particular bill. The Senator says the same bill is in the House. The House is free to act

upon it. The House has, as the Senate has not, a previous question, and can bring a final result about by a single roll-call, which we cannot do here. There are pending in the Senate, and to be pending, most of the appropriation bills, and a good many other matters of importance; and if we become ensnarled by special orders for particular days, instead of facilitating the business we shall find stumbling blocks in our way.

Therefore if the Senator from Pennsylvania will give notice that he will move at a particular time to take up this bill, I shall vote with him unless at that particular time there seems something very urgent which ought to have precedence. I make no opposition to his getting up the bill at all, but I do object to the Senate, and particularly if the Senate shall do it by inadvertence, without a division, commencing the practice of making special orders now. I do not believe that they will conduce to the dispatch of business, but that on the contrary they may have the opposite effect.

Mr. WALLACE. Inasmuch as the Senator from New York is a member of the same committee, and the senior member to myself upon it, I accept his suggestion, and give notice now that the bill will be moved for consideration on Monday.

BILLS FROM THE COMMITTEE ON MILITARY AFFAIRS.

Mr. SPENCER. I move that Saturday at half past one o'clock be set apart for the consideration of bills reported from the Committee on Military Affairs. I wish to state that there are about seventy-five bills from that committee on the Calendar, some of them of a general nature and others for the relief of soldiers. Unless we can get a day set apart for their consideration it will be utterly impossible for most of these bills to be reached in the ordinary way on the Calendar. I hope, after the immense labor the Committee on Military Affairs has been performing during the session, that one day will be given to it. I therefore move that Saturday at half past one o'clock be set apart for that purpose.

The VICE-PRESIDENT. The Senator from Alabama asks that on Saturday next, after one o'clock and thirty minutes, the remainder of the day's session be devoted to the consideration of bills reported from the Committee on Military Affairs.

Mr. DAVIS, of West Virginia. Is not that a special order? It will be equivalent to it.

The VICE-PRESIDENT. It will be equivalent to a special order. The Chair asks first is there unanimous consent? The Chair hears no objection. The order is entered.

NICARAGUA CLAIMS.

Mr. MATTHEWS. I ask the consent of the Senate this morning for the present consideration of the resolution reported by me yesterday from the Committee on Foreign Relations in reference to ascertaining and liquidating the claims of citizens of the United States against the government of Nicaragua. I am satisfied the matter can be disposed of in less than five minutes with a very short explanation.

Mr. ANTHONY. I have a resolution to submit.

The VICE-PRESIDENT. The Senate is now under that order of business, and the Senator from Ohio has the floor upon it.

Mr. MATTHEWS. It will take but a moment or two, I am satisfied, to dispose of this resolution. I think there can possibly be no objection to it. With the leave of the Senate I will state in a very few words the substance of the resolution. It is reported from the Committee on Foreign Relations unanimously, and provides for the appointment by the Chair of a select committee of five Senators to "sit during the recess of Congress, to inquire into all claims of citizens of the United States against the government of Nicaragua for indemnity for lives of relatives taken, wounds and other personal injuries inflicted, and property taken, injured, or destroyed, which have heretofore been filed in the Department of State and now remain pending and unsatisfied; and shall ascertain and determine what amounts and to what persons the government of Nicaragua is liable to make compensation on account thereof, and report the same, with the evidence in reference thereto, to Congress, at its next session," directing that "said committee shall give such public notice as it may deem necessary of the times and places when and where it will sit to hear said claims and testimony in support of the same, and shall have power to send for persons and papers, and to administer oaths." It is also directed to "obtain and use all proof relative thereto on file in the Department of State, and such other evidence as any party in interest may produce and offer that it may deem pertinent thereto," with "power to employ one clerk, who shall also be a stenographer; and directing that the necessary expenses of said committee shall be paid out of the contingent fund of the Senate."

The Senate will observe that the resolution is strictly limited to an inquiry in order to ascertain and determine the amounts that may be due and the persons to whom, without indicating any future action that may be based upon it; and inasmuch as that is essential at some time to be ascertained, I trust that this form will meet with no objection as it has been considered by the committee as the most convenient and best means for that purpose.

Mr. DAVIS, of West Virginia. I ask the Senator from Ohio whether I understood him correctly to say that the resolution comes from the Committee on Foreign Relations with the full concurrence of that committee?

Mr. MATTHEWS. Yes, sir.

Mr. DAVIS, of West Virginia. Then I have no objection to it.

The Senate proceeded to consider the resolution; which was read, as follows:

Resolved, That a select committee of five Senators be appointed by the President of the Senate, who shall sit during the recess of Congress, to inquire into all claims of citizens of the United States against the government of Nicaragua for indemnity for lives of relatives taken, wounds and other personal injuries inflicted, and property taken, injured, or destroyed, which have heretofore been filed in the Department of State and now remain pending and unsatisfied; and shall ascertain and determine what amounts and to what persons the government of Nicaragua is liable to make compensation on account thereof, and report the same, with the evidence in reference thereto, to Congress, at its next session.

And said committee shall give such public notice as it may deem necessary of the times and places when and where it will sit to hear said claims and testimony in support of the same, and shall have power to send for persons and papers, and to administer oaths. It shall also obtain and use all proof relative thereto on file in the Department of State, and such other evidence as any party in interest may produce and offer that it may deem pertinent thereto. It shall have power to employ one clerk, who shall also be a stenographer; and the necessary expenses of said committee shall be paid out of the contingent fund of the Senate.

Mr. HOAR. I should like to ask the Senator from Ohio to explain why it is that such an inquiry as this is supposed to be within the jurisdiction or in the proper functions of the legislative department of the Government and not of the executive department, to ascertain the amount of claims against a foreign government?

Mr. MATTHEWS. These claims for twenty years have been the subject of negotiation between this Government and the government of Nicaragua. Similar claims preferred against the government of Costa Rica were concluded by a convention with that government, and have been paid. The government of Nicaragua has persistently refused to enter into any joint convention for the purpose of liquidating these amounts, unless this Government would acknowledge its liability to make compensation for injuries claimed by the citizens of their government in consequence of the bombardment of Greytown, and injuries occasioned by the invasion of that territory under the lead of Walker in his filibustering expedition. In the mean time the matter has lain in abeyance. The records of the State Department from the very nature of the claims, being for lives taken and for wounds inflicted, as well as for property destroyed and injured, do not furnish any accurate mode of ascertaining the amount that is properly payable on account of this compensation, so that any demand to be made hereafter by the executive department is at present vague and undetermined; and inasmuch as it is the province of the legislature to provide means for enforcing claims of this sort on the failure of the ordinary process of negotiation by the Executive, and inasmuch as we cannot tell for what amount and in behalf of what persons such claims ought to be made until an inquiry such as this is entered into, it was thought by the committee having charge of the subject that this was the effective mode for accomplishing that necessary and sensible result.

The resolution was agreed to.

MERCHANT VESSELS.

Mr. ANTHONY. I offer the following resolution from the Committee on Printing, and ask for its present consideration:

Resolved, That 300 copies of the last annual report of the Chief of the Bureau of Statistics on the merchant vessels of the United States be bound for the use of the Treasury Department.

The law requires the Secretary to compile these statistics, but the provision which we so wisely put upon the appropriation bill at the last session prohibits him from binding them. They are of no use unless they are bound.

The resolution was considered by unanimous consent, and agreed to.

DUPLICATE BILL.

Mr. VOORHEES. I offer the following order:

Ordered, That the Secretary be directed to furnish to the Committee on Invalid Pensions of the House of Representatives a duplicate copy of the engrossed bill (S. No. 852) granting a pension to Mary E. Pauley, the same having passed the Senate May 17, 1878, and having been by the House of Representatives referred to the said committee June 14, 1878, said bill having been lost or mislaid.

I want this order to supply a bill which has been mislaid.

The VICE-PRESIDENT. The order will be entered, no objection being made.

CANISTER-SHOT.

Mr. HOAR (by request) submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs consider and report whether it is expedient to authorize the Secretary of War to procure a supply of canister-shot of improved pattern.

TRANSFER OF INDIAN BUREAU.

Mr. McCREERY. Mr. President, before the remainder of this session is dedicated to the consideration of special orders and other particular business, I give notice that at half past one o'clock on next Monday I shall ask the indulgence of the Senate to submit some remarks on the bill introduced by myself to transfer the management of Indian affairs from the Interior Department to the War Department.

SWAMP AND OVERFLOWED LANDS.

Mr. OGLESBY. I give notice that I shall ask the Senate on next Wednesday, the 12th instant, to proceed to the consideration of the bill (S. No. 780) to provide for indemnity due to the several States under the acts of Congress approved March 2, 1855, and March 3, 1857,

relating to swamp and overflowed lands. The report from the Committee on Public Lands has been before the Senate for some time. It is a bill which interests several States of the Union very considerably, and for these reasons I shall ask the Senate to take up the bill and consider it at that time, so as to make whatever disposition of it this body shall feel disposed.

Mr. PADDOCK. I did not hear what the chairman of the Committee on Public Lands indicated in reference to his wishes in regard to the bill.

Mr. OGLESBY. That it be taken up, considered, and passed by the Senate if possible.

Mr. PADDOCK. Now?

Mr. OGLESBY. No, next Wednesday.

Mr. PADDOCK. Very well.

JOHN C. BIRDSELL.

Mr. VOORHEES. In accordance with the notice I gave yesterday I move to take up Senate bill No. 501, being a bill for the relief of John C. Birdsell.

The VICE-PRESIDENT. That bill can only come up by unanimous consent for the remainder of the morning hour.

Mr. ANTHONY. I feel bound to object. I am sorry to object against my friend from Indiana, but I gave notice yesterday that I should insist that until half past one o'clock we should go on with the Calendar under the rule.

The VICE-PRESIDENT. The Chair will recognize the rule at one o'clock. The Senate can now by unanimous consent, until one o'clock, consider the bill, if the Senate so order.

Mr. VOORHEES. Then after one o'clock what is the rule?

The VICE-PRESIDENT. What is known as the Anthony rule attaches.

Mr. VOORHEES. Then a majority of the Senate can take up the bill?

The VICE-PRESIDENT. It cannot.

Mr. VOORHEES. Must it operate by unanimous consent after one o'clock too?

The VICE-PRESIDENT. Until half past one o'clock.

Mr. VOORHEES. I gave notice yesterday. I thought that would entitle the Senate to act to-day by a majority vote.

The VICE-PRESIDENT. What is known as the Anthony rule can only be suspended on one day's notice given, or by unanimous consent from one until half past one o'clock each day, or attaching earlier if the morning business shall be sooner finished.

Is there further business of the morning hour? The Chair hears none, and the Senate will proceed with the Calendar under the order.

Mr. ANTHONY. I ask the Chair to enforce the rule limiting speakers to five minutes.

The VICE-PRESIDENT. The Chair will aim to do so. The Secretary will commence the call of the Calendar at the point reached at the last call.

RICHMOND FEMALE INSTITUTE.

The bill (S. No. 61) for the relief of the Richmond Female Institute, of Richmond, Virginia, was announced as the first in order.

The VICE-PRESIDENT. The pending bill has been read at length. Are there amendments to be moved in Committee of the Whole?

Mr. CONKLING. What is the bill?

The VICE-PRESIDENT. It will be read again.

The bill was read.

Mr. CONKLING. Is there a printed report?

Mr. WITHERS. Yes, sir, and it was read the other day. I call the attention of the Senator from Massachusetts [Mr. HOAR] who reported the bill.

Mr. CONKLING. Is there a printed report?

The VICE-PRESIDENT. There is; and it has once been read.

Mr. VOORHEES. Is this bill on the Calendar?

The VICE-PRESIDENT. It is.

Mr. HOAR. This is the unanimous report of the Committee on Claims. It is for rent of property used by the Freedmen's Bureau and the Army in 1866 and 1867. The beginning of the occupation was after the close of the war. It began late in the year 1865, after the close of actual hostilities, after the period when any hostile capture of property took place. There was no promise to pay the rent. If there had been, it would have been paid without any question whatever; but there was what was equivalent to that. A board of officers determined a rent, and the rent was paid for two or three quarters, and then under the statute it was stopped. It is a very plain case. I suppose there can be no question about it.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MICHAEL CALLAHAN.

The next bill on the Calendar was the bill (S. No. 957) for the relief of Michael Callahan; which was considered as in Committee of the Whole. It appropriates $113.66 to pay to Michael Callahan for the rent of houses in Huntsville, Alabama, from July, 1864, to January, 1866, for the use of the Army of the United States, in full satisfaction of all claim of Callahan for the rent of the houses.

Mr. CAMERON, of Wisconsin. I ask that the report be read.

The VICE-PRESIDENT. The report will be read.

The Secretary read the following report submitted by Mr. MORGAN on the 20th of March, 1878:

The Committee on Claims, to whom was referred a bill for the relief of Michael Callahan, of Huntsville, Alabama, submit the following report:

The claimant presents five certified quartermasters' vouchers for rent of property at Huntsville, Alabama, during the months of August, September, October, and November, 1864, and January, February, March, April, May, June, August, September, November, and December, 1865, amounting to $113.66.

The following is written on the face of the vouchers for the months prior to August 1, 1865:

"To be settled hereafter as the Government may direct, the claimant being considered loyal."

The accounting officers of the Treasury rejected this claim on the ground that it was among those prohibited to be paid by them under the act of Congress of February 21, 1867.

These claims were reported by the depot quartermaster at Huntsville, Alabama, as being due, and were so borne upon their accounts.

They were referred by the Third Auditor of the Treasury to the Quartermaster-General, by whom they were examined and found to be correct. In certifying the claims back to the accounting officers of the Treasury, the Quartermaster-General says:

"Payment is not conditional on proof of loyalty. The services have been reported to this office as required by the regulations."

In this case the loyalty of the claimant is vouched for on the face of each certificate given him during the period of hostilities, and it is not to be presumed that the officers of the Army would improperly or heedlessly give such a certificate to a disloyal person.

Your committee recommend that the claim be allowed, and report as a substitute for the bill referred to them (S. No. 271) the following bill, and reccommend its passage.

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

GEORGE M. HAZEN.

The next bill on the Calendar was the bill (S. No. 1000) for the relief of George M. Hazen; which was considered as in Committee of the Whole. It provides for the payment to George M. Hazen, of Tennessee, of $175, in full settlement of his account for rent at Knoxville, Tennessee.

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

NATIONAL SECURITY LIFE-INSURANCE COMPANY.

The next bill on the Calendar was the bill (S. No. 694) to incorporate the National Security Life-Insurance Company of Washington, District of Columbia.

Mr. PADDOCK. I think that bill had better go over.

The VICE-PRESIDENT. Objection is made. The Secretary will report the next bill.

Mr. PADDOCK. I object to it on the ground that the Senator who reported the bill is not here.

AUSTIN-TOPOLOVAMPO PACIFIC ROUTE.

The next bill on the Calendar was the bill (S. No. 213) to survey the Austin-Topolovampo Pacific route.

Mr. SARGENT and Mr. WHYTE. I object.

The VICE-PRESIDENT. The bill is objected to.

Mr. TELLER. Is that bill objected to?

The VICE-PRESIDENT. It is.

CATTARAUGUS AND ALLEGHENY RESERVATIONS.

The next bill on the Calendar was the bill (S. No. 690) to amend an act entitled "An act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegheny reservations, and to confirm existing leases," approved February 19, 1875.

Mr. McCREERY. I object to that.

The VICE-PRESIDENT. The bill is objected to.

WORKMEN ON POVERTY ISLAND LIGHT-HOUSE.

The next bill on the Calendar was the bill (H. R. No. 622) for the relief of workmen employed in the construction of Poverty Island light-house, Lake Michigan.

Mr. SARGENT That has once been indefinitely postponed and reconsidered.

Mr. CAMERON, of Wisconsin. The report in that case is adverse.

Mr. ANTHONY. It had better go over.

Mr. CAMERON, of Wisconsin. Let it be indefinitely postponed.

Mr. ANTHONY. Very well.

The VICE-PRESIDENT. The Calendar shows that the vote on the indefinite postponement was reconsidered. Is there objection to the present consideration of the bill?

Mr. PADDOCK. I object.

The VICE-PRESIDENT. Objection is made. The Secretary will report the next bill.

HORACE A. STONE.

The next bill on the Calendar was the bill (S. No. 478) authorizing the Commissioner of Patents to extend the patent of Horace A. Stone for improvement in the manufacture of cheese.

Mr. COCKRELL. Let that be passed over.

The VICE-PRESIDENT. The bill is objected to, and the next will be reported.

FEES IN OSAGE CEDED-LAND SUITS.

The next bill on the Calendar was the bill (S. No. 582) providing for the payment of counsel fees in Osage ceded-land suits.

Mr. DAVIS, of West Virginia. That bill will bring about discussion.

The VICE-PRESIDENT. Objection is made.

THOMAS M. SIMMONS.

The next bill on the Calendar was the bill (S. No. 1067) for the relief of Thomas M. Simmons.

Mr. HARRIS. I ask that the vote in that case may be reconsidered in order that I may strike out the words "and damages." There is no such matter in the case and these words are improperly in the bill. I understand from the Senator from Vermont [Mr. EDMUNDS] the reason why he moved to reconsider the bill after it was passed——

Mr. CONKLING. As the Senator from Vermont is not in his seat, I think this had better go over.

The VICE-PRESIDENT. The bill is objected to.

Mr. HARRIS. The Senator from New York will allow me to say that the Senator from Vermont left my seat within the last few moments, having looked at the report and looked at the case.

Mr. CONKLING. I think he had better be here to take the responsibility about it.

The VICE-PRESIDENT. The bill will be passed over, objection being made.

TRANSPORTATION OF IMPORTED MERCHANDISE.

The next bill on the Calendar was the bill (S. No. 576) to amend the statutes in relation to immediate transportation of imported merchandise; which was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AUSTIN-TOPOLOVAMPO PACIFIC ROUTE.

Mr. TELLER. Objection was made to Senate bill No. 213. That objection is now withdrawn and I should like to have that bill considered.

The VICE-PRESIDENT. The Chair understands the Senator from Colorado to ask to return to a case that has been passed.

Mr. TELLER. To return to a bill objected to, the objection being withdrawn.

The VICE-PRESIDENT. That can only be done by unanimous consent.

Mr. COCKRELL. Let us know what it is.

Mr. TELLER. It is the bill (S. No. 213) to survey the Austin-Topolovampo Pacific route.

The VICE-PRESIDENT. Is there objection to returning to the consideration of this bill? The Chair hears no objection.

The bill was read.

Mr. SAULSBURY. Let that go over.

The VICE-PRESIDENT. The consideration of the bill is objected to.

CHURCHES OF THE DISTRICT OF COLUMBIA.

The next bill on the Calendar was the bill (H. R. No. 3690) to relieve the churches of the District of Columbia, and to clear the title of the trustees to such property, the consideration of which was resumed as in Committee of the Whole, the pending question being on the amendment reported from the Committee on the District of Columbia in line 7 after the word "exemptions" to insert "from taxation," and in line 8, after the word "property," to insert "which was actually held and used for the purpose of divine worship," and in line 9, after the word "worship," to strike out the words "from taxation;" so as to read:

That so much of an act of Congress entitled "An act for the government of the District of Columbia, and for other purposes," approved June 20, 1874, as was construed to authorize the commissioners of the District to set aside former exemptions from taxation of church property which was actually held and used for the purpose of divine worship, and to enforce a tax upon such property, be, and is hereby, repealed.

Mr. KERNAN. I desire the gentleman in charge of the bill to explain whether this does anything except restore to these corporations their property free from sale.

Mr. HARRIS. It restores to the corporations their property, and the bill provides for restoring to a small number of these churches a small amount of taxes that they have paid under a former act.

Mr. KERNAN. That is all?

Mr. HARRIS. That is all.

Mr. McMILLAN. Let this go over. I should like to examine the bill. I have not had an opportunity of examining it.

The VICE-PRESIDENT. The bill is objected to.

REPEAL OF RESUMPTION ACT.

The next bill on the Calendar was the bill (S. No. 1085) to repeal all that part of the act approved January 14, 1875, known as the resumption act, which authorized the Secretary of the Treasury to dispose of United States bonds and redeem and cancel the greenback currency.

Mr. SARGENT. I object.

The VICE-PRESIDENT. The bill is objected to.

MILITARY POST AT BLACK HILLS.

The next bill on the Calendar was the bill (S. No. 785) to provide for building a military post for the protection of the citizens of the Black Hills region.

Mr. SAULSBURY. I should like the gentleman in charge of the bill to explain the necessity for it.

Mr. DAVIS, of Illinois. If there is a report, it had better be read.

The VICE-PRESIDENT. The report will be read.

Mr. SPENCER. This bill was passed in the Army appropriation bill last session, and I move that it be indefinitely postponed. There is no need for the bill now.

The VICE-PRESIDENT. That order will be entered.

GAMBLING IN THE ARMY.

The next bill on the Calendar was the bill (S. No. 112) to make an additional article of war, the consideration of which was resumed as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment to strike out all after its enacting clause and in lieu thereof to insert the following:

That the following be, and hereby is, made an additional article of war for the government of the Army of the United States: "Any officer serving with troops, or any soldier not on furlough, who gambles, bets, or plays for money or other valuable stake or consideration, at any game of cards, or otherwise, shall be brought to trial by court-martial, and, upon conviction, punished as follows: If an officer, by dismissal from the military service, or such other punishment of less grade as may be inflicted by the sentence of the court-martial; if a soldier, at the discretion of the court: *Provided, however*, That any officer of the Army, whether or not serving with troops, who, by gambling, betting, or playing at cards, or otherwise, shall win money from a junior or inferior officer, shall, upon conviction by a court-martial, be punished as hereinbefore provided in the case of an officer serving with troops.

"SEC. 2. That any post-trader who shall keep, have, let, or allow to be used in his trading store or establishment, or elsewhere, any building, room, or other place in which gambling, betting, or playing for money or other valuable stake or consideration, at cards or otherwise, is on any occasion engaged in by officers or soldiers of the Army, either with each other or with civilians, shall have his appointment forthwith revoked by the Secretary of War.

"SEC. 3. That it shall be, and is hereby made, the duty of every commanding officer of a post, station, detachment, or other place or body of troops, strictly to enforce the provisions of this act by forthwith bringing to trial any soldier of his command who shall offend againt the provisions of the first section, and by promptly reporting to the department commander, or, if there be none, to the Secretary of War, with a formal charge or charges preferred by him against the offender, any case of an officer of his command so offending. And it is further made the duty of every such commanding officer promptly to report to the Secretary of War any act or allowance on the part of a post-trader at his post or station of the nature indicated in the second section. And for any failure or omission to comply with any of these injunctions, such commander shall be brought to trial as for a violation of the sixty-second article of war."

Mr. RANSOM. Let that go over.

The VICE-PRESIDENT. The bill is objected to.

METHODIST EPISCOPAL CHURCH SOUTH.

The next bill on the Calendar was the bill (S. No. 241) for the relief of the Methodist Episcopal Church South, at Charleston, Kanawha County, West Virginia.

Mr. CAMERON, of Wisconsin. I object.

Mr. HEREFORD. I hope the Senator will not object to the consideration of that bill.

Mr. CAMERON, of Wisconsin. I have objected.

Mr. HEREFORD. I then give notice that I shall move immediately after the morning hour on Saturday that the Senate take up this bill for consideration. It is perfectly idle for committees to report bills here and then go to work and have them thrown over by a single objection.

MILITARY POST IN MONTANA.

The next bill on the Calendar was the bill (S. No. 757) to provide for building a military post for the protection of the northern frontier of Montana.

Mr. SPENCER. I move that that bill be indefinitely postponed. It was passed in the Army appropriation bill last year.

The motion was agreed to.

OFFICERS OF QUARTERMASTER'S DEPARTMENT.

The next bill on the Calendar was the bill (S. No. 387) to correct the date of commission of certain officers of the Quartermaster's Department.

Mr. WITHERS. There is an adverse report in that case.

The VICE-PRESIDENT. Does the Senator object to the consideration of the bill?

Mr. WITHERS. Yes, sir.

The VICE-PRESIDENT. The bill goes over on objection.

D. F. TOZIER.

The next business on the Calendar was the joint resolution (H. R. No. 4) to allow Lieutenant D. F. Tozier a gold medal awarded by the President of the French Republic; which was considered as in Committee of the Whole. It authorizes Lieutenant D. F. Tozier, of the steamer Dix, United States revenue-marine service, to accept from General MacMahon, President of the Republic of France, a gold medal, which he desires to present to him as a recognition of his gallant, courageous, and efficient services in saving the French bark Peabody, aground February 23, 1877, off Horn Island, Mississippi Sound, Gulf of Mexico.

Mr. SARGENT. I should like to have that explained. I cannot exactly catch the purpose of it.

Mr. HAMLIN. I think that is one of the cases which come within the rigid rule my friend from California lays down. The evidence in the case is very clear, I think, that this officer rendered very gallant service in rescuing the lives of the persons on this French vessel and saving the vessel itself, and in consequence of that gallant service this medal was bestowed. The officer being in our revenue marine cannot accept it without the consent of Congress.

Mr. SARGENT. On that explanation I withdraw the objection.

Mr. SAULSBURY. I notice that the resolution speaks of "General MacMahon, President of the Republic of France." He has resigned.

Mr. HAMLIN. That is as the case was presented to the committee, and it is right to leave it as it is.

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

LOCAL INSPECTORS OF STEAM-VESSELS.

The next bill on the Calendar was the bill (S. No. 435) to establish a board of local inspectors of steam-vessels for the collection districts of Minnesota and Duluth.

Mr. CAMERON, of Wisconsin. I object to the consideration of that bill.

Mr. McMILLAN. I hope the Senator from Wisconsin will withdraw his objection in the interest of the public. I should like to have it considered now.

Mr. PADDOCK. I think the Senator from Wisconsin ought to withdraw his objection.

The VICE-PRESIDENT. The bill is objected to.

JAMES SHIELDS.

The next bill on the Calendar was the bill (H. R. No. 4245) authorizing the President of the United States to appoint James Shields, of Missouri, a brigadier-general in the United States Army on the retired list.

Mr. TELLER. Let that go over.

The VICE-PRESIDENT. The bill is objected to.

PRIZE-MONEY TO FLEET OFFICERS.

The next bill on the Calendar was the bill (S. No. 486) to extend the provisions of the act of June 8, 1874, in relation to prize-money, to all fleet-officers; which was considered as in Committee of the Whole.

The Committee on Naval Affairs reported the bill, with an amendment to strike out all after the enacting clause and in lieu thereof to insert the following:

That in the distribution of prize-money adjudged to the captors, the third subsection of section 4631 of title 56, "Prize," of the Revised Statutes, shall apply to fleet-surgeons, fleet-paymasters, and fleet-engineers, and they shall be entitled to the same share and upon the same conditions as provided in the said subsection in relation to fleet-captains; and that the act authorizing corrections to be made in errors of prize-list, approved June 8, 1874, shall apply to all fleet-officers, including fleet-surgeons, fleet-paymasters, and fleet-engineers, for the time they served in the war.

The amendment was agreed to.

Mr. MORRILL. I should like to ask the Senator reporting this bill, the Senator from Maryland, [Mr. WHYTE,] whether this will require all the cases that have been already adjudicated to be reopened, and whether it will not take a large sum out of the Treasury?

Mr. WHYTE. I will state to the Senator from Vermont that I have embodied all the facts in the report, which if it is read will explain the whole case without detaining the Senate by a personal explanation.

Mr. CONKLING. Let us hear it read.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The report will be read.

The Secretary proceeded to read the report submitted by Mr. WHYTE, from the Committee on Naval Affairs, on the 8th of May, 1878.

The PRESIDING OFFICER. The time for the consideration of the Calendar has expired and the regular order will now be laid before the Senate, which is the resolutions of the Senator from Vermont.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the bill (S. No. 1560) authorizing the Windham National Bank to change its location.

THIRTEENTH, FOURTEENTH, AND FIFTEENTH AMENDMENTS.

The Senate resumed the consideration of the resolutions submitted by Mr. EDMUNDS on the 7th of January in relation to the thirteenth, fourteenth, and fifteenth amendments to the Constitution, the pending question being on the amendment of Mr. MORGAN.

Mr. WHYTE. Mr. President, after the elaborate and exhaustive arguments of the Senators from Alabama [Mr. MORGAN] and Delaware [Mr. BAYARD] it would be a work of supererogation and a task for which I am wholly unfitted to attempt any amplification of their cogent reasoning or to enforce any of the objections which they have made to the passage of the first resolution offered by the Senator from Vermont, [Mr. EDMUNDS.]

I do not think, Mr. President, that the Senate is called upon to assume the *rôle* of the Supreme Court of the United States and pass upon the question whether or not these three amendments, the thirteenth, fourteenth, and fifteenth, have been legally and in due form ratified by the States; nor do I think it worth while for the Senate to express any opinion in regard to that class of legislation which has been passed by Congress to enforce these amendments, inasmuch as the Supreme Court of the United States has very briefly stated to Congress and to the country that the laws which have heretofore been passed do not constitute that appropriate legislation contemplated by the framers of these three amendments.

As far as the fifteenth amendment is concerned, I do not hesitate to say that I never took any stock in it. It was my privilege as a member of this body to be one of that little band who cast their votes against the adoption of the fifteenth amendment ten years ago. I was entirely satisfied then, as I am gratified now, that that scheme of political aggrandizement would eventually come back to plague the inventors. I was especially gratified, however, when subsequently the fifteenth amendment was submitted to the Legislature of my State, to find that in neither branch of the General Assembly could there be found a single individual poor enough to give it the homage of a solitary vote. And so, Mr. President, as far as my action was concerned in voting against it, the Legislature of my State by a unanimous vote gave me its approval. But whenever it was declared by the President of the United States through the proper organ, the Secretary of State, that all of these amendments, and especially the fifteenth amendment, had been adopted and ratified by the proper number of States, the State which I have the honor in part to represent on this floor acquiesced in that declaration, made its laws conform to its requirement, and one and all of its citizens, to whatever party belonging, have given adhesion to it and supported it with the same fidelity and allegiance that they support every clause of the original Constitution.

Therefore it is unnecessary for us to pass opinions in regard to their legality. It is enough to know that both political parties in their great conventions have declared their adhesion to them, the democratic party boldly stating that they accepted them as the result and the settlement of all those questions which engendered the civil war. We are therefore bound by them; we have sworn to support them; we intend to live up to them; we are ready to vote for every law which comes within the purview of the amendments and is intelligently discerned to be that appropriate legislation for their enforcement which the framers of these amendments intended or which is understood to be the proper meaning of their language.

But, Mr. President, this first resolution is nothing; it is a grouping of words to attract the attention of the Senate and divert it from that insidious attempt to invade the rights of the States to be found in the second resolution. Ah, Mr. President, it is too much like those pyrotechnical displays which we so often see on the stage, spitting fire in every direction and smoke curling to the skies to attract the attention of the audience while the little devil creeps out of the box unseen. The second resolution is the resolution which the Senator from Vermont wishes to make practical. The second resolution contains the germ of the legislation which he contemplates to put upon the country; and when I heard the Senator from Vermont yesterday make his statement in regard to the powers of Congress as found in the Constitution, I felt that as an old State-rights democrat I would be recreant to my duty if I let such doctrines and theories pass unchallenged, even by as feeble a protest as should come from me.

Why, sir, the first resolution is "mere leather and prunella" compared with the second resolution, which assumes the right in Congress to go into every State and absorb all its elective machinery, control the appointment of judges, guard every avenue of approach to the polls, and regulate all the machinery for the election of members of the House of Representatives. It is a manifest stride toward the absorption of all the powers now belonging to the States. It finds no warrant in any of the three amendments. It is not a consequence of the assertion of the powers given to Congress in those amendments at all; but it is based upon an old clause of the Constitution, and is the assertion of a power for the first time attempted in all its scope and breadth by the Congress of the United States. It is based upon section 4 of the first article of the Constitution, and the Senator from Vermont states in this broad language the power which he finds in that clause of the old Constitution:

The Constitution says that the State shall have a perfect right, the qualification being fixed in another part, of regulating the time, the place, and the manner of election, which I take it all sensible men agree covers everything which enters into the composition of that quantity—the producing of a lawful member of Congress.

The power over the time, the place, the manner, he says, gives to Congress the whole absolute power of controlling the election from its incipiency to its conclusion.

What then? But Congress may at any time make or alter these regulations, according to its own sense of what is fit. The power of Congress, therefore, I respectfully submit, is just as broad as the power of the State. It is left to the States for convenience—

"For convenience," says the Senator from Vermont—

in the first instance, until occasion shall arise when in the sense of all the States represented here and of all the people represented in the other branch of Congress it is fit that the national authority by a uniform law operating in every place in the same way and with penalties that operate in every place and in the same way enforces in the same courts and under the same rules and judgments and in the same way shall be brought into play.

So that the Senator from Vermont thinks that a man is not sensible at all who disputes the doctrine that from these words in the old Constitution in regard to the time, place, and manner, the whole power of controlling the elections for members of the House of Representatives belongs to Congress. I deny it. I am willing to take my rank among the men who lack sense enough to appreciate the proposition of the Senator from Vermont. I deny that there is such power given under the Constitution in this section or in any other section to which the Senator from Vermont can refer me.

Now, Mr. President, let me read his second resolution that we may understand its purport:

Resolved further, That it is the duty of Congress to provide by law for the full and impartial protection of all citizens of the United States legally qualified, in the right to vote for Representatives in Congress, and to this end the Committee on the Judiciary be, and it hereby is, instructed to prepare and report, as soon as may be, a bill for the protection of such rights, and the punishment of infractions thereof.

This resolution proceeds upon the assumption that the United States has a right to control in the fullest degree the privilege of suffrage as to Representatives in Congress and to punish any infraction thereof. I say, as I said before, there is no such power lodged in Congress. It belongs to the States to protect the people of the States in their right to vote for members of Congress. The authority of Congress is limited even in regard to the election of members of the House of Representatives.

Now, first, let us see the mode in which the House is created. Article 1, section 2, of the Constitution provides that "the House of Representatives shall be composed of members chosen every second year." By whom? By the citizens of the United States? No, "by the people of the several States." They constitute the power of creation. In them is lodged the power to make members of Congress—the people of the States, not the citizens of the United States at all.

Chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

It will be seen that the qualification of electors or voters is to be ascertained and fixed by the States, independent of any action or control of the Federal Government. The power to prescribe these qualifications is inherent in the States, and is to be exercised in perfect independence of Congress. The fifteenth amendment comes in, I admit, as a proviso to the power originally reserved to the States, and says that in fixing the qualifications for voters the States must not discriminate among the people on account of race, color, or previous condition of servitude. The States have the constitutional power to-day to prescribe any condition to the right to vote, except as to race or color or former condition of the person. Thus the very foundation upon which the construction of the House of Representatives exists is the suffrage granted by the States. That suffrage is absolutely under the control of the States except as to the abridgment mentioned in the fifteenth amendment. The voters that create members of the House of Representatives are voters of the States and not of the United States. The United States has no voters of its own, and therefore there are no citizens of the United States to be protected in their right to vote until the State, under the fifteenth amendment, denies the right to a man on account of his race, his color, or his previous condition of servitude. The Representatives are chosen by the people of the States. The regulation of suffrage is conceded by the fourteenth amendment to the States as a State right. I call the attention of the Senate to that fact, that in the very fourteenth amendment the regulation of suffrage is conceded to the States as a State right; and one of the judges of the Supreme Court of the United States has so ruled. When it is denied or abridged for any cause "except for participation in rebellion or other crime" by a State, then the State is to be punished, not the individual; but the State is to be punished by a reduction of the representation of that State in the proportion specified in that amendment. Why, it is too plain for any man to dispute; the wayfaring man can read and understand it as he runs.

The right or privilege of voting is one arising under the constitution of the State and not under the Constitution of the United States. Thus the voter, the man who is one of the people of the several States, is the creator of the member of the House of Representatives; while he himself is but the creature of the States. Congress cannot add to or diminish his qualification as a voter. He, when he becomes a voter, assumes the garb and *rôle* of a citizen of the State, and not a citizen of the United States who is to be protected by the law of the United States, but as a citizen of the State to seek his protection in the courts of his own Commonwealth. But the Senator from Vermont says that he stands upon section 4 of article 1 of the Constitution, wherein it is declared that—

The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

The very section of the Constitution contains the refutation of the argument of the Senator from Vermont. The very language of the Constitution is a mandate to the States. It is mandatory when speaking of the States. The States shall prescribe the times, the places, and the manner of choosing Representatives to Congress. The States shall do it. "You must do it," says the Constitution; not "for convenience we give it to you" as the Senator from Vermont says. Was it left with the States for convenience? Not at all. Left with the States where it belongs, to the people of the States which in the previous section of the Constitution had been made the power to choose its members of the House of Representatives. "You people of the States are to choose them; therefore we command you that you shall prescribe the places and the time, and the manner of holding elections for members of the House of Representatives." But when it comes to speak of Congress, is Congress told in the form of a mandate that it shall do so? No, Mr. President. "Shall" is addressed to the State, but when speaking of Congress the language is merely permissive in its character: "Congress may at any time by law make or alter such regulations," as to time, as to place, as to manner.

Thus the power is limited even there, a power to be used on some occasion of which I will presently speak, but a power only permissive in its character, and that power limited and permissive is also limited in the three points of fixing a time, designating a place, and determining the manner in which the election shall take place. The power "hath this extent, no more.' No argument can force any other construction upon the plain interpretation of these words. It was a dormant power granted to Congress to be used only when the States disobeyed the mandate or obeyed it in such a form as to render the obedience of no effect. Then could Congress in the one case make regulations and in the other alter them so as to render them effectual to promote the objects of the Constitution?

This clause of the Constitution, limited as it was in its scope, had to be defended before the people to satisfy them that this bare reservation of power was not designed as an encroachment on the rights of the people of the States. Mr. Hamilton defended it in three numbers of the Federalist. He places its defense on the ground of the necessity of lodging the ulterior authority in the General Government, but it was for the self-preservation of the Government in an hour when the States refused to comply with the mandate of the Constitution. That is all it was intended for; that was its whole scope; that was the whole object of its insertion in the Constitution, a power in the National Government to preserve itself in case the States refused to co-operate in the election of members of the House of Representatives. In the fifty-ninth number of the Federalist he said:

Its propriety rests upon the evidence of this plain proposition, that every Government ought to contain in itself the means of its own preservation. * * * That an exclusive power of regulating elections for the National Government in the hands of the State Legislatures would leave the existence of the Union entirely at their mercy. They could at any moment annihilate it by neglecting to provide for the choice of persons to administer its affairs. With so effectual a weapon in their hands as the exclusive power of regulating elections for the National Government, a combination of a few such men, in a few of the most considerable States, where the temptation will always be the strongest, might accomplish the destruction of the Union by seizing the opportunity of some casual dissatisfaction among the people, and which perhaps they may themselves have excited, to discontinue the choice of members for the Federal House of Representatives.

In the same number he said:

They have submitted the regulation of elections for the Federal Government, in the first instance, to the local administrations: which in ordinary cases, and when no improper views prevail, may be both more convenient and more satisfactory; but they have reserved to the national authority a right to interpose whenever extraordinary circumstances might render that interposition necessary to its safety.

That is all, Mr. President. It was a power only to be exercised in a supreme crisis when a legislature refused to provide by law for the election of Representatives in Congress, or made such provision as would thwart the very object for which the power was left with the States. In the Virginia convention Mr. Nicholas, discussing this part of the Constitution, thus explained it:

If the State Legislatures, by accident or design or any other cause, would not appoint a place for holding elections, then there might be no election till the time was past for which they were to have been chosen; and as this would eventually put an end to the Union it ought to be guarded against, and it could only be guarded against by giving this discretionary power to the Congress of altering the time, place, and manner of holding the elections. It is absurd to suppose that Congress will exert this power, or change the time, place, and manner established by the States, if the States will regulate them properly, or so as not to defeat the purposes of the Union.

Mr. Nicholas was not far-seeing enough to look upon the legislators in Congress during the last few years. In the same convention Mr. Madison, in answer to a question propounded by Mr. Monroe, said:

It was found necessary to leave the regulation of these [elections] in the first place to the State governments, as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity and prevent its own dissolution. * * * Were they exclusively under the control of the State governments the General Government might easily be dissolved. But if they be regulated properly by the State Legislatures the congressional control will very probably never be exercised. The power appears to me satisfactory and as unlikely to be abused as any part of the Constitution.

The commentary of Judge Story on this part of the Constitution is in the same spirit:

In the first place—

Said he—

the power may be applied by Congress to correct any negligence in a State in regard to elections, as well as to prevent a dissolution of the Government by designing and refractory States, urged on by some temporary excitements. In the next place, it will operate as a check in favor of the people against the designs of a Federal Senate and their constituents to deprive the people of the State of their right to choose Representatives. In the next place, it provides a remedy for the evil if any State, by reason of invasion or other cause, cannot have it in its power to appoint a place where the citizens can safely meet to choose a Representative. In the last place, (as the plan is but an experiment,) it may hereafter become important, with a view to the regular operations of the General Government, that there should be a uniformity in the time and manner of electing Representatives and Senators, so as to prevent vacancies when there may be calls for extraordinary sessions of Congress.

All of these views proceed, as you will see, Mr. President, upon the theory and the expectation that Congress could only interfere to perpetuate the Government and to prevent its dissolution. All this was a defense of the limited power in Congress to make and alter the

regulations of the States in regard to the times, the places, and the manner of holding congressional elections.

Now, right here before I go any further in this branch of the brief argument which I propose to submit to the few of the Senators who honor me with their hearing, I should like to ask the Senator from Vermont whether under the power which he finds in this fourth section of the first article of the Constitution, Congress has power to do more than fix the time of the election, the manner of the election of Senators in Congress? I would ask him in the same connection whether Congress has the power to pass any law to meet a case of this character: By the act of 1866 Congress has provided a time for the election of Senators; the day is fixed on which each branch of the Legislature votes separately; the next day they vote in joint convention; or, if the previous votes have resulted in an election of both branches of the Legislature separately, they declare in joint convention who has been elected. The place they cannot change of course, because the Constitution says so. The time they have fixed. The manner of voting shall be *viva voce*, says the law. Now, I ask the Senator from Vermont if in that Legislature, in that joint convention, no man having been elected in the two houses the day before, a body of men, members of the Legislature, should gather together and hustle a part of the Legislature into a committee-room and lock the doors upon them, and then proceed to elect a man, who would not have been elected if all the members of the Legislature had been allowed to vote, is there any power in Congress to pass a law punishing that as an offense; or is the Senate limited to the clause which makes it the judge of the election of Senators and gives it the power to reject a man so elected?

Mr. EDMUNDS. Does the Senator want me to answer now?

Mr. WHYTE. I do.

Mr. EDMUNDS. I reply to my honorable friend from Maryland, although his question is a very long one, in substance what I said yesterday, I believe though I have not looked at it—that all the power the State has to regulate the manner of the election of Senators and members of the House of Representatives the Congress of the United States has, because in the very same clause and by the very same words the two powers are conferred. If then without any intervention by Congress the States, left as the Constitution leaves them with authority to regulate all this matter, may constitutionally pass a law which would rectify, prevent, or punish the particular state of circumstance that the Senator alludes to, then Congress may, if it chooses, do so. I should say in speaking of both propositions, first as to the State, that it would be perfectly competent for the State in the absence of congressional action, which would supersede it under the Constitution, to provide that if at the election of a Senator in the Legislature any misconduct should happen of a particular character, just as all penal laws must describe it, it is in the competence of the State by its Legislature to make a law that will punish that misconduct of a member of its own Legislature in voting for a Senator. In other words, a part of the "manner" of an election is to punish any person that is called upon to take part in it for any illegal misconduct which interferes with the constitutional purity of the performance of that act.

Can it be doubted, Mr. President, that the Legislature of Maryland in the absence of any congressional law that would supersede it, or the Legislature of Vermont may, by a penal law passed in advance, provide for the punishment of members of their respective Legislatures who in executing this duty of electing a Senator should be guilty of corruption or of bribery, be guilty of violent disturbance that should break up and prevent by force, by tyranny, by revolution anything that the State chose to define within a scope that I need not now spend the time of the Senate in describing, define as an offense and punish it? I should hardly suppose that my friend from Maryland would doubt it.

Then if the State has that power and has it because the Constitution of the United States out of which alone grows the existence of a Senator, has authorized the State to do that thing in that clause of the Constitution which says that the State may regulate it all, if the State may regulate it all, then the Constitution says in the same language and in the same clause that Congress, if it chooses, may take up the administration of that same subject in the same way. Therefore, if the State may punish Congress may punish if it sees fit to interfere.

Mr. WHYTE. I thought probably that was the view of the Senator from Vermont. I thought he did entertain the theory that the national power could enter the halls of a State Legislature and punish under the United States laws an offense committed in the halls of the Legislature of a State.

Mr. EDMUNDS. May I ask my honorable friend a question?

Mr. WHYTE. Certainly.

Mr. EDMUNDS. Does he deny that a State may do that?

Mr. WHYTE. No, sir. I say the State ought to do it, and has the power to do it, but Congress has no such power.

Mr. EDMUNDS. Where does the State get the power?

Mr. WHYTE. The State gets the power in its general control of the affairs of the State.

Mr. EDMUNDS. Yes, but——

Mr. WHYTE. Any crime committed against a State is punished by the State.

Mr. EDMUNDS. Oh yes, that is all true enough; but the question is where the State gets the power to have a Senator at all. It gets it under the Constitution of the United States. It does not get it under its own constitution because in respect of itself and its own constitution; I am so much of a State-rights man that I believe the State is sovereign and independent in every respect except where that constitution should impinge upon the Constitution of the United States.

Mr. WHYTE. But there is where the Senator from Vermont and I differ. I do not see that it does impinge upon the Constitution or upon the powers of Congress. The Senator from Vermont reverses the order of things. I look upon the Constitution as the creation of the States. He seems to think that the States are the creatures of the Constitution. The power given to Congress is a power given by the States represented in a convention. The powers not specially delegated to Congress were reserved by the States, and it is one of the reserved powers of each State to control its own affairs where it does not conflict with the powers granted to Congress.

Why, Mr. President, no such doctrine as that enunciated by the Senator from Vermont ever prevailed in Congress for more than half a century. Nobody ever dreamed of exercising this power in Congress till away down in 1842. Then was the first time that anybody ever undertook to assert the power contained in this fourth section of the first article of the Constitution. Then, and then for the first time, this latent power was set in motion. Not until June 25, 1842, did Congress ever attempt to interfere either with the time, the manner, or the places of electing Representatives in Congress. Then for the first time the law apportioning Representatives contained in it a section which required the States to be divided into districts, and commanded that the election should be held by districts and not by general ticket for members of Congress. The attempt met even in that early day with serious opposition. The act received in the House of Representatives 101 votes for it to 99 against it. Every democrat but one voted in the negative. Four of the States actually either repudiated it or neglected to conform to it. New Hampshire rebelled against it. If it had been South Carolina, it would have been called nullification; but in the loyal State of New Hampshire it was only a construction of a constitutional provision. New Hampshire, Missouri, Georgia, and Mississippi elected by general ticket to the Twenty-eighth Congress, and a strong protest was made against the members from those States taking their seats at the opening of Congress. The Committee of Elections of the House of Representatives, through Judge Stephen A. Douglas, (at whose feet I would rather sit to learn constitutional law than at the feet of the Senator from Vermont,) made an able report upon the subject, declaring the second section of the act of 1842, requiring elections to be by districts and not by general ticket, to be no law and not binding upon the States, and the House of Representatives concurred in it and seated the members from New Hampshire and the other States.

Now, Mr. President, let us hear what he who was called familiarly the "little giant" said on this subject of the times, the places, and the manner of electing Representatives in Congress:

When General Pinckney proposed in the convention which formed the Constitution that the Representatives "should be elected in such manner as the Legislatures of each State should direct," he urged, among other reasons in support of his plan, "that this liberty would give more satisfaction, as the Legislature *could then accommodate the mode to the convenience and opinions of the people.*"

That was the original proposition made by General Pinckney.

After the substance of this provision had been fully and ably discussed, maturely considered, and unanimously adopted, the latter clause of the section conferring upon Congress the power to make regulations, or to alter those prescribed by the States, was agreed to, with an explanation at the time that "this was meant to give to the National Legislature a power not only to alter the provisions of the States, but to make regulations in case *the States should fail or refuse altogether.*"

A power granted to both that both could exercise or either could exercise according to volition? No, a power lodged with the States and only to be exercised by Congress when the States were recreant to their duty and refused to obey the mandate of the Constitution.

The conventions of the States of Virginia, Massachusetts, New Hampshire, New York, Rhode Island, and South Carolina accompanied their ratifications with a solemn protest against the power of Congress over the elections. They proposed amendments to the Constitution, changing the obnoxious provision, and recorded on their journals perpetual instructions to their representatives in Congress to urge earnestly and zealously the adoption of those amendments, and to refrain from the exercise of any power inconsistent with the principles of the proposed amendments. The amendment and instructions of the people of Virginia relating to this subject are as follows:

I hope the Senate will pardon me for reading so much, but we are wandering far from the doctrines of the fathers; and, in the language of Jefferson, if we have gone away from these true teachings in times of error or alarm, let us hasten to retrace our steps and regain the path which shall lead to liberty, to safety, and to prosperity:

The Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for Senators and Representatives, or either of them, except when the Legislature of any State shall neglect, refuse, or be disabled by invasion or rebellion to prescribe the same; and the convention do, in the name and behalf of the people of this Commonwealth, enjoin it upon their representatives in Congress to exert all their influence, and use all reasonable and legal methods, to obtain a ratification of the foregoing alterations and provisions in the manner provided by the fifth article of the said Constitution; and in all congressional laws to be passed in the mean time, *to conform to the spirit of these amendments* as far as the said Constitution will admit.

Massachusetts also spoke out on that occasion, and this is the language of its amendment and instruction adopted by its convention:

The convention do, therefore, recommend that the following alterations and pro-

visions be introduced into the said Constitution: that Congress do not exercise the powers vested in them by the fourth section of the first article but in cases where a State shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress, agreeably to the Constitution.

And the convention do, in the name and in behalf of the people of this Commonwealth, enjoin it upon their Representatives in Congress, at all times, until the alterations and provisions aforesaid shall have been considered agreeably to the fifth article of the Constitution, to exert all their influence and use all reasonable and legal methods, to obtain a ratification of the said alterations and provisions, in such manner as is provided in the said article.

It is unnecessary—

Says Judge Douglas—

to quote the instructions and amendments proposed by the ratifying conventions of the other States, as they are all of similar import. The State of North Carolina refused to ratify the Constitution unless certain amendments proposed by her convention should be adopted; one of which was as follows:

"That Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for Senators or Representatives, or either of them, except when the Legislature of any State shall neglect, refuse, or be disabled by invasion or rebellion, to prescribe the same."

Thus we find that seven of the thirteen States then composing the Union, being the majority of the whole number, solemnly protested against the authority of Congress to establish regulations concerning the mode of election, or to alter those prescribed by the States; and that the Constitution was adopted with the understanding (and probably never would have been adopted but for the understanding) that it was never to be exerted except in the few specified cases.

From this brief review of the history and contemporaneous exposition of this portion of the Constitution, it is evident that the convention which formed and the people who ratified that great charter of our liberties intended that the regulation of the times, places, and manner of holding the elections should be left exclusively to the Legislatures of the several States, subject to the condition only, that Congress might alter the State regulations, or make new ones, in the event that the States should refuse to act in the premises or should legislate in such a manner as would subvert the rights of the people to a free and fair representation.

Mr. President, that was the storm which was created in the House of Representatives when, in the apportionment act of 1842, Congress exercised only that limited power of requiring members of Congress to be elected by districts and not by a general ticket; and this law of 1842 lay dormant upon the statute-book from that time until in the throes of the civil war, in 1862, Congress took the subject up again and passed a law, on the 14th of July, wherein the provisions of the act of 1842 were re-enacted requiring elections by districts of contiguous territory, thus fixing the places of election by districts and not by the whole State; limiting, therefore, the place of the election of a member of Congress to be within the confines of a district composed of contiguous territory.

But, Mr. President, nothing moves faster than encroachments on the rights of the people. Power never retrogrades until it is driven back. It marches on with the tramp of the soldier if it is unobstructed. And so, in 1872, long after the war, when peace and quiet reigned through every portion of our land, Congress took up the subject again and passed an act fixing the time for the election of members of Congress to be the Tuesday after the first Monday in November, and again Congress determined, having used the power of fixing the place, having used the power of making a uniform time, Congress determined the manner in which the election should be conducted, and prescribed that the election should take place by voting printed or written ballots.

Here, then, I contend has been a positive, a full, and exhaustive use of this power lodged with Congress only in a certain contingency, but used by Congress in the absence of the contingency which it was provided to meet. But having fixed your time, having fixed your place, having fixed your manner, you cannot march into the confines of a State and appoint your judges of election, set up your polling places, put your ballot-boxes there, and pass your laws making citizenship of the State subservient to citizenship of the United States. No, Mr. President, another step in that direction is an invasion of the reserved rights of the States, and I will vote for no resolution that contemplates the enaction of a law which transgresses these limits. I know that by your enforcement act of May 31, 1870, in its nineteenth and probably other sections——

Mr. EATON. I should like the Senator's views in regard to the authority of the General Government to employ John Davenport and four thousand marshals to regulate the elections in the city of New York.

Mr. WHYTE. I was about to come to that branch of this subject very briefly. I know that by your enforcement act of 1870, May 31, in one or two of its sections, the fourteenth and nineteenth I believe, and by the act of July 14, 1870, Congress has exceeded its authority; but notwithstanding the decisions of some of the circuit courts under which penalties have been inflicted upon citizens of States, I will not believe the laws to be constitutional until my objections have been set at rest by a decision of the Supreme Court of the United States. The appointment of supervisors under the act of July 14, 1870, by the Federal judges is clearly no exercise of judicial power, and Congress, in my judgment, has no warrant to require of them the appointment of public officers to discharge purely political duties.

Mr. EDMUNDS. The Constitution says that we may vest the appointment of subordinate officers in the courts of law.

Mr. WHYTE. Certainly, subordinate to the courts, not subordinate to the republican party to carry elections.

Mr. EDMUNDS. That is not what the Constitution says.

Mr. WHYTE. No, but that is what the republicans interpret the Constitution to mean.

Mr. EDMUNDS. The Senator is mistaken about that.

Mr. WHYTE. I only speak of the results of their appointments in certain quarters. I remember well to have read a list of the supervisors appointed in the city of New York under this act when it was first put in operation; and if they were officers of a court, God help the administration of justice!

Mr. EDMUNDS. They were all taken from Tammany, I suppose.

Mr. WHYTE. No, Tammany was rejected; they were all taken from the combination of Chester Arthur and the other people who united to beat Tammany. No, Mr. President, the people of the States conduct the elections; the people of the States pay for the expenses of conducting the elections; and this is only creating a large body of partisans to be paid out of the public Treasury to do the political work of a party.

Can it be possible that the courts of justice, that judges covered with spotless ermine, are to be dragged into the political whirlpool and made part of the political system of electing members of Congress? It is against the spirit of the Constitution; it is not judicial work. It is cruel as well as unconstitutional to put it upon the judges of the Federal courts. When that bundle of laws in 1869 or 1870, out of which this hotchpot of a law of May 31, 1870, containing all sorts of provisions heterogeneous in their character, was brought in here and was pending before Congress, nobody then placed the power of Congress to interfere in the Federal elections on this clause of the Constitution. The committee that reported them placed it on that broader ground to which they always fly when asked for their warrant of authority for laws that appear to be unconstitutional. One member—I do not remember in which House it was—upon being asked in regard to some of these bills, where he found in the Constitution authority for the enactment of such provisions, replied, "In *E pluribus unum*."

Mr. EATON. It was Thaddeus Stevens.

Mr. WHYTE. I had forgotten.

Mr. EATON. He said it was all outside of the Constitution.

Mr. WHYTE. In this report, made February 25, 1869, in which these various laws are recommended, the committee say on this subject:

If, then, Congress may employ State tribunals to execute an exclusively national power, and subject to penalties all who in such tribunals violate national laws—

Nobody had admitted that—

a fortiori, citizens and officers directly amenable to national authority, exercising functions, performing duties, or enjoying privileges directly under the sanction of the supreme government, may be punished for any abuse of their functions, violations of duty, or perversion of privileges.

This is exactly the resolution of the Senator from Vermont, which was to meet that class of cases. Where did he find his authority for such a law? Not under the fourth section of the first article of the Constitution, but hear what was said:

On this subject it is unnecessary to call in the aid of the fourteenth amendment to the Constitution, the "general-welfare" power of the Constitution, or the inherent right of the Government to exercise the powers necessary for self-preservation.

So that the clause of the Constitution which allows Congress to lay imposts for the purpose of providing for the common defense and the general welfare is used as an authority for enacting penal laws to punish people for violating the privilege of voting, &c.!

I knew full well when the Senator from Vermont offered his resolutions that the first resolution meant nothing practically. The first was to divert us on this side. It was the second resolution that had "the cat in the meal-tub." It was the second resolution which proposed the enaction of law to place the possession of the machinery of elections so far as members of Congress are concerned into the hands of national authority, and so in addition to supervisors and deputy marshals, in addition to all the paraphernalia of the national authority, to throw around and over the people of a State the judges of election, the inspectors of election, the clerks of election, the marshals to notify in regard to the election, every other form or shape of authority necessary to conduct a Federal election in the State is to be assumed by the national authority.

I shall oppose as long as I have the honor of a seat on this floor all such aggressions against the rights of the people of the States. To amplify such acts of Federal authority and to usurp more of the reserved power of the States in the conduct of elections would be, in my judgment, another and a larger stride toward centralization which it behooves every lover of our republican form of government to resist with zeal and firmness.

Mr. GARLAND. Mr. President, I beg leave to offer an amendment to the substitute now before the Senate.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The amendment to the substitute of the Senator from Alabama [Mr. MORGAN] will be reported.

The SECRETARY. It is proposed to insert after the word "that," in the first line of the substitute, the word "although," and after the words "United States," in the second line, to insert "were not adopted in a legal manner, yet having been accepted, recognized, and acquiesced in by the States, they;" so as to make the first resolution of the substitute read:

Resolved, That although the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States were not adopted in a legal manner, yet having been accepted, recognized, and acquiesced in by the States, they are as valid and binding as any other part of the Constitution; that the people of the United States have a common interest in the enforcement of the whole Constitu-

tion in every State and in the Territories of the United States; and that it is alike the right and duty of the United States, so far as the power has been delegated to them, to enforce said amendments and to protect every citizen in the exercise of all the rights thereby secured.

Mr. GARLAND. If the Senate is prepared to consider the amendment which I have offered I shall proceed now to give the reasons for offering it; otherwise it may be printed and lie over for further consideration. I observe the mover of the original resolutions is not in his seat at present.

The PRESIDING OFFICER. The amendment just proposed by the Senator from Arkansas will be the first question to be acted upon.

Mr. HILL. Is the amendment in order?

The PRESIDING OFFICER. The amendment is in order.

Mr. HILL. It is an amendment to an amendment.

The PRESIDING OFFICER. It is in order. The Chair so decides. If any Senator desires the Chair to do so he will submit the question as to whether it is in order to the Senate.

Mr. GARLAND. A substitute is always amendable.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Arkansas [Mr. GARLAND] to the substitute of the Senator from Alabama [Mr. MORGAN] for the resolutions offered by the Senator from Vermont, [Mr. EDMUNDS.]

Mr. GARLAND. Mr. President, I do not know the motive of the introduction of the original resolutions into the Senate at this time, nor am I permitted by parliamentary usage or rule to make any inquiry in reference to it beyond the reasonable interpretation of the resolutions themselves. It is, however, a matter of inquiry, and one very suggestive after so many years of living, so to speak, under these amendments and enforcing them by all the departments of the Government, the Senator from Vermont with the rest of us having sworn to support them in taking a seat on this floor, why now at this day and time an inquiry should be raised as to their legality in any respect. Really, upon the face of the question, I should have been just as much bewildered if the resolutions of the Senator from Vermont had incorporated the fifth amendment to the Constitution, which is one of the best amendments to that instrument. While they are valid I do not see that there is a necessity of resolving it every day, as Hannibal swore his vengeance to the Romans. But taking it for granted that the Senator from Vermont supposed there was some infirmity or some irregularity attaching to these amendments, I have addressed myself to a consideration of the question, and looking through the Constitution as a whole, these three amendments with the rest, I do find on reviewing that instrument with all the amendments which have been proposed and ratified and adopted that there is some difference in the legal origin, in the legal growth, and the legal completion of full age between these three amendments and the other amendments to the instrument we call the Constitution of the United States.

The purpose of my amendment is to draw that distinction, since we have been invited to the consideration of this question not by any action of mine or any action of any Senator upon this side of the Chamber that I am aware of; but it seems to come in such a questionable shape before the country that it must be spoken to. My amendment is drawn in as plain language as it is possible for me to use in drawing any paper, and it declares that although these three amendments "were not adopted in a legal manner * * * they are as valid and binding as any other part of the Constitution." I might have said, although they were not adopted "in due form," or "in due course of law," or something of that sort, but the good old word "manner" is understood better in the country; it is understood better in the minds of those people who have to bear the taxes and burdens of this Government. Therefore I say that although they have not been adopted in a legal manner, yet the States who must under the Constitution act upon their ratification and must ratify them, if they are to be ratified at all, have accepted, recognized, and acquiesced in them, and therefore they are as valid as any other part of the Constitution; and then follows the other part of the substitute of the Senator from Alabama.

Referring back to the history of the times in which these amendments had their origin, and traveling along in its succeeding steps to the time when they were finally promulgated by the Secretary of State, we find that eleven States of the number of States that then constituted this Union had no representation upon the floor of either House of Congress. Mark that upon those States these amendments were to operate just as much as they were to operate upon New York or Massachusetts or any other of the adhering States. Whether that was the case or not, the farce was gone through of submitting them to those States for their ratification. I characterize it now as a farce, though in the sequel it came very near if not entirely amounting to a tragedy.

I will read from a message sent by President Andrew Johnson on the 26th of June, 1866, to the Senate and House of Representatives upon the fourteenth amendment. I will start somewhat in the middle and then refer back and forward as I progress. After stating the steps of the adoption of this resolution of amendment as it was, and the advertisement, so to speak, by the Secretary of State, he then gives his views in the following words:

> Even in ordinary times any question of amending the Constitution must be justly regarded as of paramount importance. This importance is at the present time enhanced by the fact that the joint resolution was not submitted by the two Houses for the approval of the President, and that of the thirty-six States which constitute the Union eleven are excluded from representation in either House of Congress, although, with the single exception of Texas, they have been entirely restored to all their functions as States, in conformity with the organic law of the land, and have appeared at the national capital by Senators and Representatives, who have applied for and have been refused admission to vacant seats.

There is a statement from the President of the United States that eleven of the States upon whom these amendments were to be operative had no representation in either House of Congress; that they were not then, to use the language of Mr. Lincoln, "in practical relations with the General Government:"

> Nor have the sovereign people of the nation been afforded an opportunity of expressing their views upon the important questions which the amendment involves. Grave doubts therefore may naturally and justly arise as to whether the action of Congress is in harmony with the sentiments of the people.

Because whether you indulge in the theory of what is called State rights or liberal construction, we must not forget, nor can any of us ever forget, that it is the people at last who carry on this Government. When they had not an opportunity to speak upon this resolution of amendment and to express their sentiments upon it, it is a little more than a farce to say that it has been adopted by the States in a Government made, carried on, and conducted by the people.

> And whether State Legislatures, elected without reference to such an issue, should be called upon by Congress to decide respecting the ratification of the proposed amendment.

Mr. President, if not in your own State, [Mr. COCKRELL in the chair,] certainly in mine, the people upon whom the burdens of that government rested had no more earthly voice in the adoption of these resolutions of amendment than if they had lived in Peru or the Feejee Islands, because the grappling-irons of disfranchisement were put upon every one of them. Three-fourths of the people were disfranchised in the State of Arkansas, and I speak advisedly when I say it was the same in other States. The question was never submitted to the people. The Legislatures were elected irrespective and regardless of these questions; and the Legislatures in some instances represented no person this side of the moon, but the amendments were certified here as having been ratified by those States. Now, I proceed further with this message of President Johnson:

> Waiving the question as to the constitutional validity of the proceedings of Congress upon the joint resolution proposing the amendment, or as to the merits of the article which it submits through the executive department to the Legislatures of the States, I deem it proper to observe that the steps taken by the Secretary of State, as detailed in the accompanying report, are to be considered as purely ministerial, and in no sense whatever committing the Executive to an approval or a recommendation of the amendment to the State Legislatures or to the people.

Something has been said in this debate, (and I do not know but that the Senator from Alabama has intimated as much,) to the effect that the promulgation by the Secretary of State of the adoption or ratification of these amendments gave them a vitality possibly that they did not have before. I take issue upon that proposition. As President Johnson said, his act was merely ministerial. If all the legal steps necessary under the Constitution to the ratification of those amendments had been taken, not one iota of that default could this proclamation of the Secretary of State cure, because the proclamation but proclaimed a fact that he assumed had been established before. If the fact of the ratification had not occurred, his proclamation did not make it before the country anywhere occur as a fact. We all know that laws frequently are proclaimed as having been adopted, when upon judicial investigation it turns out that they have not been adopted, and they are set aside. Bear in mind this proposition. The promulgation, as the word imports, meant simply the announcement to the country of what had actually occurred. If it had not occurred as the Constitution contemplated, the promulgation was of none effect. I read further:

> On the contrary, a proper appreciation of the letter and spirit of the Constitution, as well as of the interests of national order, harmony, and union, and a due deference for an enlightened public judgment, may at this time well suggest a doubt whether any amendment to the Constitution ought to be proposed by Congress and pressed upon the Legislatures of the several States for final decision until after the admission of such loyal Senators and Representatives of the now unrepresented States as have been, or may hereafter be, chosen in conformity with the Constitution and laws of the United States.

That means, Mr. President, that until those States were recognized to be in a condition of freedom, a condition of liberty, it was useless to say to them "here are amendments to the Constitution for you to pass upon," and to say in the same breath, "you must take these amendments; you must ratify them, or you will be held in a condition and state of bondage." That is what the President meant by that. The facts of that day and time justified him in that assertion.

All of these propositions stated by the President at that time apply with equal if not stronger force to the thirteenth amendment. The thirteenth amendment was proposed in February, 1865, when the war was still actually going on. Its ratification, if I recollect correctly, was promulgated in December, 1865. The Supreme Court in the Anderson case, 9 Wallace, has laid down the different periods at which the war ceased, when peace was restored to the country. It seems that June 13, 1865, there was a kind of conditional proclamation issued by the President as to the State of Tennessee. April 2, 1866, he issued a proclamation that the war had closed and peace reigned in Georgia, South Carolina, Virginia, Tennessee, Alabama, Louisiana, Arkansas, Mississippi, and Florida. He left Texas out in the cold; but on the 26th of August, 1866, proclamation was issued that peace reigned in Texas as well as all over the country. You will see from that analysis, Mr. President, that this thirteenth amendment was really born

and matured in the actual throes of the war. One of two things then is correct. If it was a war measure, as Paschal in his Annotated Digest of the Constitution seems to interpret it, it never should have been submitted in this farcical form to those States.

Mr. EDMUNDS. Will my honorable friend from Arkansas permit me to interrupt him?

Mr. GARLAND. With great pleasure.

Mr. EDMUNDS. Our learned friends on the other side seem to have at this present moment a very large respect for the judgments of the Supreme Court of the United States; and on the precise point that my friend is discussing I wish to call his attention to the decision of the Supreme Court of the United States in the case of White *vs.* Hart, found reported in the thirteenth volume of Wallace's Reports, on a case coming from the State of Georgia where the third point of contention was as stated by the court in delivering its opinion, "that her constitution was adopted under the dictation and coercion of Congress, and is the act of Congress, rather than of the State," &c.

The court say:

The third—

Which is the one I have read—

The third of these propositions is clearly unsound, and requires only a few remarks. Congress authorized the State to frame a new constitution, and she elected to proceed within the scope of the authority conferred. The result was submitted to Congress as a voluntary and valid offering, and was so received and so recognized in the subsequent action of that body. The State is estopped to assail it upon such an assumption. Upon the same grounds she might deny the validity of her ratification of the constitutional amendments. The action of Congress upon the subject cannot be inquired into.

Mr. GARLAND. Will the Senator please send me the volume from which he has read?

Mr. EDMUNDS. Certainly.

Mr. GARLAND. I am very much obliged to the Senator for calling my attention to that decision. I recollect the case of White *vs.* Hart; I took very great interest in it. The suggestion made by the Senator from Vermont is directly in the line of the next proposition that I am coming to in the course of my remarks, after submitting a few words in reference to the fifteenth amendment. I have finished all I desire to say in regard to the thirteenth and fourteenth amendments. The fifteenth amendment was submitted to the States—and the three amendments all stand pretty much together in reference to this proposition—when three-fourths of the people of the States bore the burdens (and I adhere to that expression) of the governments of those States, were disfranchised and had no vote, and were assumed to be represented by people in the Legislatures, who represented nothing in a great measure, which adopted, or ratified, if you prefer the expression, the fifteenth amendment. It is not to be considered in any sense of the word as the action of the representatives of the people of those States, and it would be, if I may be pardoned the expression, an outrageous distortion of language to so say. It is true when the fifteenth amendment went through the process of ratification those States or most of them did have representatives in the Senate and in the House nominally, but that the people of my State or of the other States similarly situated were represented I deny emphatically, and so over every part of the ground.

Notwithstanding this is my position as to the history of these amendments, and while I religiously and conscientiously believe that under the law and the Constitution of this country they are not attended with the least legality in their ratification, yet they are as firmly and as fixedly a part of this Constitution as the fifth or sixth or tenth or twelfth amendments. My amendment carefully guards that point by declaring that these States, ever since they have been restored to their integrity, have accepted, recognized, acquiesced, and I might have added enforced them, and therefore they cannot escape from them if they would, and, so far as I know, they would not if they could.

I will now comment upon what the Senator from Vermont has been kind enough to furnish me with. The language of the decision he read is that—

The result was submitted to Congress as a voluntary and valid offering, and was so received and so recognized in the subsequent action of that body.

That is all that I have said. It is upon that that these amendments received the only vitality they have or can have under the sun; because, since these people, if you may so express it, returned to their senses, or to their love of country, or whatever, they have acquiesced in the amendments, they have accepted them in the language of the decision of White against Hart, and they could not escape from it.

Mr. EDMUNDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arkansas yield to the Senator from Vermont?

Mr. GARLAND. With great pleasure.

Mr. EDMUNDS. Was not that then a legal acceptance, if the State chose to do it through its Legislature in the form prescribed by the Constitution?

Mr. GARLAND. I admit that it was, for argument's sake.

Mr. EDMUNDS. I do not ask my friend to admit it for argument's sake, but I wish to get his real opinion upon it.

Mr. GARLAND. Very well, I will give my opinion before I finish, because this is the point upon which I hang the whole matter. There is nothing in the decision of White *vs.* Hart, whether I accept the decision of the Supreme Court or not, that I would controvert.

Sir James Mackintosh said that governments were not made but that they grew. These amendments, by some kind of legerdemain—no, I will not say that, but by some operation that I could characterize—as amendments, as law, grew into the system of this Government; they were not made; that is to say, what is not legally made is not made at all, but growing there and being acquiesced in and accepted and recognized, they are just as valid now as any other portion of that instrument. It is not the first time in the history of this Government, it is not the first time in the history of any government that had anything of a long period of duration allotted to it, that there has been witnessed important statutory laws and organic laws grow, as it were, into the frame-work of the government as it progressed. We have *de facto* laws; we have *de facto* amendments to the Constitution; we have *de facto* governments; and we might have possibly a *de facto* President; but when they are accepted they are as valid, I repeat, as if they had been originally passed upon properly, because there is an old principle of the law, possibly as old as the law if not older than the law itself, which says, "an after-ratification is as good as an original authority to do the act."

I as governor of the State of Arkansas for over two years recommended legislation upon these amendments to the Legislature of Arkansas. They adopted legislation directly and indirectly under these amendments. Those laws were enforced; and there is not a man in the State of Arkansas to-day that I know, to whatever party he belongs, who would escape or seek to escape from one of these amendments. But when I am called upon to say whether they are valid or not, I must say in the same breath that I think they are valid why I think they are valid. That they were valid in their inception or in their supposed ratification I deny. That they have become valid by subsequent acts of ratification by the different Legislatures of the States and by the people of the States I admit; and I do not regret it; and I should not go back one inch beyond that. If there is any provision of the Constitution that since my political service began I have carried out with more fidelity and more allegiance under my oath than these three amendments I am not now aware of it, and cannot call it to my mind.

Therefore, Mr. President, upon the amendments themselves, these are the reasons why I say they were not valid in the first instance. With the amendment to the substitute which I have offered, I shall vote for it, but without the amendment I shall vote for neither the substitute nor the original proposition of the Senator from Vermont.

A few words more as to the remainder of the substitute. The rest of the substitute is a plain, concise, and cogent summary rather of the decisions of the Supreme Court upon these different questions touched. I do not accept the decisions of the Supreme Court, acting here in my official capacity, merely because they are decisions of the Supreme Court. I must be left to judge of the Constitution, in all of its parts, upon my own judgment. The Supreme Court might sometimes say that Congress did not have the power to make Treasury notes a legal tender; and in less than two years from that time it might say that Congress did have the power to do so. That course of decisions coming to me from the Supreme Court I should be bothered very much to know which decision to take. Therefore I must be remitted to my own judgment upon these questions, and I must take the responsibility of that judgment, whether it be good, bad, or indifferent. Those decisions are persuasive of course to Senators and to every person else. When those decisions come to us, acting under the Constitution, they are and should be persuasive, that is, they go for what they are worth; but I will not admit that they are conclusive. The decisions here summarized in the substitute of the Senator from Alabama are persuasive to my mind unto conviction; and being convinced that they are correct and that they are the law I support them, because in my judgment they accord with the Constitution and the somewhat complex theory of the Government under which we live. I give support to the latter part of the substitute most cheerfully and readily, but for the first portion, if the amendment I offer is not adopted, I cannot vote, and therefore if my amendment to the amendment is not agreed to I shall vote neither for the substitute of the Senator from Alabama nor for the original resolutions of the Senator from Vermont.

Mr. JONES, of Florida. Mr. President——

Mr. CAMERON, of Pennsylvania. Will the Senator from Florida yield to me for a motion to go into executive session?

Mr. JONES, of Florida. Certainly.

Mr. CAMERON, of Pennsylvania. I make that motion.

The PRESIDING OFFICER. The question is on the motion of the Senator from Pennsylvania, that the Senate proceed to the consideration of executive business.

Mr. EDMUNDS. On that question I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 30; as follows:

YEAS—26.

Beck,	Eaton,	Kernan,	Randolph,
Butler,	Garland,	Lamar,	Saulsbury,
Cameron of Pa.,	Gordon,	McCreery,	Voorhees,
Cockrell,	Harris,	McPherson,	Whyte,
Coke,	Hereford,	Maxey,	Withers.
Davis of W. Va.,	Hill,	Merrimon,	
Dennis,	Johnston,	Morgan,	

NAYS—30.

Anthony,	Edmunds,	Matthews,	Saunders,
Booth,	Ferry,	Mitchell,	Sharon,
Bruce,	Hamlin,	Morrill,	Spencer,
Burnside,	Howe,	Oglesby,	Teller,
Chaffee,	Jones of Nevada,	Patterson,	Wadleigh,
Conkling,	Kellogg,	Plumb,	Windom.
Dawes,	Kirkwood,	Rollins,	
Dorsey,	McMillan,	Sargent,	

ABSENT—20.

Allison,	Cameron of Wis.,	Grover,	Paddock,
Bailey,	Christiancy,	Hoar,	Ransom,
Barnum,	Conover,	Ingalls,	Shields,
Bayard,	Davis of Illinois,	Jones of Florida,	Thurman,
Blaine,	Eustis,	McDonald,	Wallace.

So the motion was not agreed to.

Mr. JONES, of Florida. Mr. President, the range which this discussion has already taken will justify me, I think, in offering a few observations to the Senate in regard to some provisions of the Constitution not particularly referred to in the resolutions of the Senator from Vermont. We have two distinct propositions presented to the Senate, the one coming from the distinguished Senator from Vermont, the other coming from my esteemed friend from Alabama. The Senator from Vermont seems to have thought that the thirteenth, fourteenth, and fifteenth amendments were in danger. Therefore he did not extend his resolutions beyond those amendments. There are other amendments to the Constitution besides those that he has enumerated, and one in particular to which I wish especially to draw the attention of the Senate. Called upon to support the substitute of the Senator from Alabama, which extends itself to the whole Constitution, I have no hesitation in saying that there is a subject which it opens up for discussion that ought not any longer to be delayed. I refer, Mr. President, to the sixth amendment of the Constitution. It is not a new amendment; it is so old that there is no question made in regard to the ratification of it. It is part of the organic law and accepted as such by the entire American people. My purpose in addressing the Senate to-day is to ask that the provisions of that amendment be carried out. If I am not misinformed, nearly a year ago a bill was introduced in this body and referred to the Committee on the Judiciary asking the legal mind of that leading committee of the Senate to inquire into the necessity of repealing the most obnoxious provision of law that now remains on the statute-book; I mean that provision which leaves it in the power of any judge of a court of the United States to administer an oath to every juror called before him which, in its effects and consequences, necessarily destroys all impartiality in the jury-box. The sixth amendment of the Constitution guarantees to every citizen in this land "a public trial by an impartial jury of the State and district wherein the crime shall have been committed." That is its precise language, and notwithstanding that, there exists to-day on the statute-book of the United States a provision of law which empowers any district or circuit judge holding the courts of the United States to administer an oath unto each and every man called upon to serve as juror in the court that he has not participated in or sympathized with the late rebellion. If I am not misinformed, this subject was brought to the attention of the Judiciary Committee more than a year ago, and their power was invoked in the interest of impartial justice and the cause of the Constitution.

The war ended in April, 1865. Nearly every man who had any connection with it has been pardoned for any offense that he may have committed against the laws of the Union. Notwithstanding all this, notwithstanding the exercise of the gracious power of pardon on the part of the President, the pains and penalties prescribed in the section of the Revised Statutes to which I have referred are continued in force and operation to the present time, although repeated efforts have been made to blot them out. I am free to say to the Senate to-day that the interest of my people in this great question is such as to make it one of great practical importance.

The Senator from Delaware [Mr. BAYARD] in his very fine address to the Senate deprecated the converting of this high body into a moot court, and he very properly observed that we were not here for the purpose of indulging our taste for dialectics, but to transact practical business for the people of the United States. I am glad, I say, that the scope of the substitute offered by my friend from Alabama [Mr. MORGAN] affords me an opportunity, without any violation of order or propriety, to bring this important question to the impartial consideration of the Senate of the United States. Whatever may have been the informalities or the irregularities attending the ratification of the amendments referred to in the resolutions of the Senator from Vermont [Mr. EDMUNDS] the question is of little practical importance at the present time; certainly it is of little importance compared with the question that I now present to the Senate; and that is to secure impartial jury trials throughout the length and breadth of this land.

What, Mr. President, is the effect of the provision of law of which I complain? It is a great public fact known to every Senator within the sound of my voice, that nearly every man in the States of the South who possesses intelligence and capacity to perform jury service may be excluded by the operation of this law. A few weeks ago the Senate, pressed as it was by my friend from Kentucky who sits on my left, [Mr. BECK,] was forced to blot out section 820 of the Revised Statutes, which made sympathy with or participation in the rebellion absolute ground of challenge and disqualification of jurors in the courts of the United States. The provision of that section, as is known to the Senate, was that any one upon drawing the attention of the court to the fact that a person was summoned for jury service who had sympathized with or participated in the rebellion could have that person excluded from the jury-box; in other words, that section made sympathy with or participation in the rebellion ground of disqualification for jury service in the courts of the United States. That is as far as the Senate in the exercise of its wisdom thought proper to go. But they repealed that section. Some question, it is true, was made here as to whether it was lawful or not, but waiving all question of that kind the Senate decided to blot that provision from the statute-book and to leave section 821 intact.

What are the provisions of section 821? Section 821 leaves it in the power of any district or circuit judge of the United States to-day to exclude from jury service, I may say in eleven States of this Union, every man of intelligence or capacity within them. I am not exaggerating. The sweeping character of this provision is so great that it is impossible to get a jury there composed of intelligent men if this provision of law is enforced. I am speaking of this as a great public fact coming out of the history of the past, that it is so far-reaching that no man who remained within the lines of the confederacy during the period of the war can be permitted to exercise the humble and unpretending functions of a juror in a trial which affects the life and character of his fellow-man if a judge of the district or circuit court shall deem it wise or politic to exclude him. I ask the Senate if this is not a farce upon justice? I ask those learned lawyers who are now within the sound of my voice when it was in the history of that system of jurisprudence which has ingrafted itself upon our country that the judge held this power over the jury? I ask those who are conversant with the principles of English law and who can realize the great influence of trial by jury in preserving the liberties of a people when it was that a judge of a court had the power to say what class of men should sit beside him to decide upon the lives and fortunes of their fellow-men? I know there are those here who have read history to advantage and who cannot but remember that great trial which involved the liberties of Great Britain. I mean that trial upon which James the Second staked his crown when the seven bishops were on trial. I ask them if the power which is possessed to-day under our laws had been possessed by James the Second or his ministers whether it would have been possible for the revolution of 1688 ever to have occurred? What, I ask, would have been the fate of British liberty if the despotic tyrant who then ruled over the destinies of the free people of England had been able through his judges to have dictated who should sit upon the lives and fortunes of those men? They refused to obey his orders; they refused to adhere to his command; they were dragged before a jury of London, as Macaulay tells us, and the fate of an empire was made to depend upon the decision of that jury.

The Crown did not have it within its power to select a jury. Fortunately for the cause of constitutional liberty, it did not, and the verdict which proclaimed to the world and to Europe in particular that there were twelve honest men unwilling to do the bidding of a relentless tyrant, set the foundation-stone of liberty in Europe, the influence of which was afterward extended to this continent. No, sir, there never was a greater principle involved than this; and when I ask the Senate to consider impartially this great question, to look into the grievances of the people who are affected by this law, I do nothing more than my plain duty. Under the provisions of this existing law, as I said a while ago, any judge can pack a jury, any marshal can pack a jury. I will not say that it has been done, although some things have taken place of late years that look very much like it.

Mr. MORGAN. The Senator will allow me to say that I assert on the floor of the Senate that it has been done systematically and persistently.

Mr. JONES, of Florida. Why should he have this power? Why should the liberties of any portion of the people of the United States be placed at the mercy of a district judge, a power which I said a while ago has never been confided to a king of England? Look at the great trial of Hardy, look at the burning words of Horne Tooke, look to the exertions of Erskine in the cause of human liberty, and you will find that all his triumphs, all his grand achievements in behalf of the British people grew out of the fact that the jury system of Great Britain was comparatively impartial and did not permit the power of the Crown to interfere so as to pack juries in its own interest.

I remember when the other day the distinguished Senator from Maine, who is not now in his seat, [Mr. BLAINE,] referred to a debate that took place in the British House of Commons between Mr. O'Connell and Macaulay, and he referred to it for the purpose of emphasizing what he considered to be the undue demand of the people of the South for rights beyond those claimed or possessed by other people of the country. That was in 1833. If he had followed the course of events from 1833 and come down to the year 1844, he would have seen how little there was of truth in what was said by the great historian in regard to the exorbitant demands of Mr. O'Connell. He would have seen that man, distinguished for his talents, for his services, for everything calculated to elevate and distinguish human nature, standing in the prisoner's dock in the Queen's Bench in Dublin arraigned before a packed jury organized to convict him; he would have seen something of the pith and the logic of the great Liberator's appeal when he was struggling in 1833 to secure for his people and his country the same measure of liberty that existed

within the confines of the British isle. The Senator from Maine seemed to think that his demand was exorbitant; that he was asking more than he had a right to demand and more than had been conceded to other British subjects; but in his own sad fate and in the events to which I have alluded there is a sufficient commentary upon the wisdom of his exertions in the cause of human liberty. He saw very clearly that the day might come when he and his followers would go down under the hand of oppression, and he did go down, for, after every effort to destroy him had failed, a packed jury was the last instrument resorted to by the Crown.

Now, Mr. President, after having repealed section 820 of the Revised Statutes, I ask you in common fairness how you can maintain the one that follows? How any man with a fair heart, after he has investigated this subject, after he has looked into the Constitution and seen that it demands a fair and impartial trial in all cases between the Government and the citizen, can possibly give his consent to the continuance of this obnoxious provision, I cannot understand. I can understand how before that section was repealed the one that remains might consistently have been perpetuated. Section 820, as I said a while ago, made sympathy with and participation in rebellion absolute ground of disqualification for jury service in the courts of the United States. All persons of that class were absolutely disqualified to serve on juries, while section 800, which is taken from the old law of 1842, provides for the same qualifications for jurors in the courts of the United States which exist in the State tribunal.

After the repeal of section 820 the law of 1842, which is embodied in section 800, was restored in its fullest length and dimensions. So the law stands now that the same qualifications which exist for jury service in the courts of the States shall prevail in the courts of the United States. That is the law. The mode of drawing and impaneling are the same, and the marshal and the clerk in executing these provisions of law are bound to have regard and to have regard only to persons possessing the same qualifications that are required for jury service in the courts of the several States. But what is the practical operation of the law? The marshal and the clerk of the United States court meet, I will say in the city of Raleigh, the capital of the State of my friend before me, to draw jurors to serve in the courts of the United States. Under the law now existing they are required to put into the box the names of persons who possess the same qualifications as jurors summoned in the courts of the several States. There is no option left to them. They must deposit in the box the names of persons possessing the qualifications of jurors in the State courts, for that is the law as it now stands. The drawing takes place; we will say that from five hundred names of persons who are found to be qualified for jury service in the State courts one hundred men are drawn for service at a specified term. It is all very well if they are to remain; it is all very well if that jury list can stand; but after the jury list is drawn of men who are in every way qualified under the law, under section 800 of the Revised Statutes of the United States, one hundred men are drawn for jury duty, but when the court meets the presiding officer of the court, in obedience to the suggestion of the district attorney, administers what is called the iron-clad oath? Mark the operation of this! There is no question about the qualification of the men to serve under section 800 of the Revised Statutes, but the judge administers this oath, and 90 per cent., I will venture to say, of every jury panel that is summoned under the laws of the United States will have to stand aside; they cannot take the oath; they cannot enter that box. How are their places now to be filled? Where, I ask, was the necessity of going through the idle form of selecting the panel by lot? The law meant something. That system of jurisprudence from which we borrow this drawing meant something when it required the whole panel to be drawn by law. But after this oath is administered as it may be by the presiding officer of the court, 90 per cent. of that panel will have to stand aside; and how, I ask the Senate, are their places to be supplied? I can tell you how they are supplied. When the exigency of politics requires it, their names are supplied by the officer of the court. He has authority as the law now stands to take the number necessary to make up the panel from the bystanders. That is the operation of your impartial jury system.

In the first place your officers are required to draw a list of persons who on the face of the law are qualified to serve, but who by the arbitrary action of the judge may not be permitted to serve, who may be set aside by the beck of his hand and driven from their place, and then the marshal can turn around under the provisions of your law and summon from the bystanders a number of men sufficient to make up 90 per cent. of the entire panel. He may designate them; and making all just allowances for the integrity of men, I for one, with a due regard for the liberty of the people of this country, am unwilling that this power shall reside in any officer, be he high or low. Whenever the time comes that my liberty and my character and my freedom are made to depend upon the individual virtue or good intentions of the men who are designated to administer the laws, I shall be willing to admit that I hold them by a very insecure and unreliable tenure. I want them secured by law; I want the liberty of the citizen protected beyond the possibility of individual corruption or party bias; and I do not want to see the impaneling of a jury left in the power of any officer to select as he may think proper for party or for personal ends.

Now, Mr. President, it is folly to deny that in the section of the country from which I come we have to deal with a class of cases that are denominated political offenses. I wish it were possible to blot that phrase from our vocabulary, but it is not possible to do so. There is a large class of cases springing up in that section of the country from day to day which are known as political offenses, wherein the interest of party, I am sorry to say, figures to a very great extent. It is folly to deny, if we are to believe what we see and read in the public press, that the political party which now controls this Chamber and the executive government of the United States has been disappointed in the result of the elections in one section of the country of late. It would be folly to deny that the result thus deprecated has been said to flow from a disregard of what are known as the election laws, that vast code which is bristling all over with penalties intended to secure the impartial right of suffrage, and that the result has been attributed to a disregard and a violation of those laws. Indictments have followed, prosecutions have followed, arrests have followed, and trials have followed; and hence the necessity for juries that will hold with an even hand the scales of justice.

Sir, it is expecting a little too much of human nature to expect any man who presides on the judicial bench not to be influenced to some extent by the interests of his party. I have read too much of human history, I have seen in my short time too much of human life, to expect that high order of virtue from any judge which will enable him in a case wherein his party and his government are concerned to hold with an even hand the scales of impartial justice. Under these circumstances nothing can be more important than to give to the accused that protection which the common law intended he should have, and which the Constitution of his country secures to him, an impartial jury of the State and the district, not a jury to do the bidding of the presiding officer of the court, not a jury that will listen for one moment to the presiding officer when the cause of human liberty is involved; no, sir, but a jury that will exercise that great prerogative of mercy and clemency after taking into consideration all the facts of the case that was exercised in the cases of Hardy, of Gordon, and of Tooke in the face of the exertions of the British Crown. We know the influence of the bench. I do not deprecate it; it is very proper in its way; but when the liberty of the citizen is involved it is his right to be tried by men who have a sympathy with him. Why does the humanity of your law entitle an alien to a jury one-half of whom are composed of men who are in accord with him in allegiance and feeling? How can you explain the philosophy of that law which exists in every country where the common law is recognized, that entitles an alien who owes no allegiance to the country to a trial by a jury composed at least of one-half of men who owe no duty whatever to the country wherein the trial takes place? The purpose of this law, if it has any purpose, is to exclude from the jury in nearly every case likely to arise under it the force of the Government, to have men who can have sympathy with the accused, and not to place the liberty and the property and the life of the citizen, it may be at the mercy of a class of men in whose bosoms are teeming the stormy passions of hatred and political disappointment.

It was the observation I think of one of the most profound thinkers who ever devoted a moment's thought to this subject that in cases of criminal prosecution the feelings of the jury sympathizing with the prisoner, as they are supposed to do, in no instance more than overbalanced the inclinations of the court in the opposite direction. Tell me not, then, sir, that it is either wise or humane or just in any case to carry out a law which, giving to it all that may be claimed for it, can only secure a jury which will be in full accord with the court.

Why, sir, I was told the other day that in my own State the gentleman who administers justice there in putting in force this very law by which numbers of the best people in the community were excluded from the jury-box stated that he was unable to take the oath himself. The fact cannot be denied that he cannot take it, and this Senate and the appointing power of the United States elevated to high judicial station a man who, while he may have possessed the qualities necessary to administer the judicial office—I do not deny that—still who was unable to take this very oath which he required to be administered to the men that were summoned to perform jury service in his court. I ask what a commentary is that upon the fairness and the impartiality of your judicial system!

If the judge who is to administer the law, who is to expound the statutes, who is to pronounce sentence, who is to do all those delicate duties connected with the judicial office, can sit with safety to the country on the judicial bench, in the name of God and of common right upon what principle of law or justice can you deny the right of the citizen to enter the jury-box who is in a like situation? If you appoint to judicial station men who from their past associations and connections cannot take this obnoxious oath, why will you not put without restriction into the jury-box men who are unable to take it?

I am not going to weary the Senate by the discussion of any constitutional question. I am not going to cite the decisions of the Supreme Court, numerous as they are, to show that this thing is unconstitutional and wrong in principle, because I have made it a rule in appealing to the Senate to be controlled by those high principles of justice which, outside of all particular adjudications, ought to govern its action. As I had occasion to say the other day, this body is high

enough, it ought to be broad enough, to determine the law itself; it ought not to depend upon any co-ordinate department of the Government to tell it what its duty is; and I believe it has intelligence and sincerity and capability enough in a question of this kind to see the folly and the injustice of perpetuating and continuing a law that is attended with the consequences which I have attempted to portray.

I could refer the Senate to the great case of Cummings *vs.* The State of Missouri and of *Ex parte* Garland in 4 Wallace, where this whole subject of test oaths is fully discussed, but it would be an idle parade of learning for me on this occasion to attempt anything of the kind. A mere reference to those decisions will bring to the minds of Senators the recollection of the great principles that are therein set forth. I ask them here to-day, in all candor and sincerity, when looking into this subject brought to light by these constitutional resolutions, that they will not overlook the matter that I have endeavored to bring to their notice.

I know, Mr. President, that party feeling has had too much to do with the legislation of the country. No one regrets it more than I do. I admit that I am a party man, but I think there are times and there are occasions when I can lay aside my party feelings and do justice to every man that disagrees with me in political opinion; and I regret above everything else to see that this bitterness of party strife has so incorporated itself into everything connected with the legislation of the country as to prevent any measure from going through either House of Congress that is not classified as a party measure. Why, sir, we are going behind the nations of the world in this respect. In England, when Charles the First was beheaded, in France, where Louis the Sixteenth perished upon the scaffold, in the land of Bonaparte and the land of Cromwell, (to borrow the thought of a young man,) the mutual wrongs done by political parties are forgiven and forgotten, while we are arrayed against each other by the spirit of fanaticism which, being driven from every country of Europe, has found a refuge here, and we precipitate ourselves upon each other in these encounters of partisan hostility in which our country, bleeding and lacerated, is trampled under foot.

Mr. HILL. Mr. President, this discussion has developed one fact which I think ought to be and will be gratifying to all the American people; and that is, that all parties, and the representatives of all parties and all sections of this country, accept the thirteenth, the fourteenth, and the fifteenth amendments as valid parts of the Constitution. These are the results of the war as they have been framed by the gentlemen who claim the credit of having conducted the war in permanent constitutional form. We are satisfied with them, we accept them, we obey them. I trust that gentlemen on the other side will always be satisfied with them, and not complain of them in the future; and I trust now, after what we have discovered here during this discussion, that our excellent friends on the other side will not after they go home tell the people of the North that we of the South are unwilling to accept the results of the war. We do accept them; we so here say. All this debate discloses it. Every form of resolution proposed discloses it; and that good result having been accomplished, I, for myself, for one, do not see any other good to be accomplished by this discussion. I think, therefore, it is time to close the discussion, and with this discussion closed forever the war is over, and let it stay over. I move, therefore, sir, that the original resolutions and all amendments thereto be postponed until the 5th day of March next.

The PRESIDING OFFICER, (Mr. COCKRELL.) The Senator from Georgia moves that the pending resolutions and the amendments be postponed until the 5th day of March next.

Mr. EDMUNDS. May I suggest to my friend from Georgia, if we are all at one, why it would not be much better to adopt the resolutions. Then we should have expressed our opinion upon them. A postponement is merely putting them off for further consideration. If we are all agreed, then let us all vote unanimously for the resolutions.

Mr. HILL. The reason is this: I have observed in my experience that we get into trouble by discussing the form of a thing, the substance of which we all agree to. Now, the main proposition that the thirteenth, fourteenth, and fifteenth amendments are valid as parts of the Constitution is admitted, conceded on all hands. As to what those amendments mean, we leave that for future discussion and to the interpretation of the courts just as all other parts of the Constitution are left, and it is useless to take up the time of the Senate discussing what these amendments mean when we certainly do not contemplate any action. No judgment of this Senate will bind anybody, not even the Senate itself. And having developed this great fact on the main point, I do not see anything to be accomplished by continuing a wrangle over these amendments. I propose, therefore, that they be postponed until the 5th of March next, and I think, with all due deference for my friend from Vermont, it is the best disposition that can be made of the whole subject.

Mr. EDMUNDS. I have no doubt that my honorable friend thinks so. I think he himself would much prefer not to vote upon the resolutions. His very motion implies that, of course. What the resolutions mean nobody, as it appears to me, has had any great difficulty in finding out. The assault that has been made upon them by the Senator from Alabama, the Senator from Delaware, the Senator from Maryland, the Senator from Florida, and the Senator from Arkansas has been that they do mean what these honorable Senators do not agree to. That is what is the matter with the resolutions.

Now if we all agree that they do mean something, as we all do, that they provide for action as they do also in respect of making some effort to secure the right of the qualified citizens (not others) of the United States and the various States to vote for members of Congress, then we ought to take some steps to provide for it, because my honorable friend cannot have forgotten that it has been recently discovered upon an indictment that the crime of stuffing a congressional ballot-box does not happen to be named in the statutes of the United States, and therefore apparently tissue ballots in South Carolina and all that belongs to that name will go "unwhipped of justice" unless the local authorities of the State of South Carolina shall take pains to punish it, if they have laws that provide for such punishment, and that they will not take pains to punish it seems to be pretty obvious from the fact that no one of the offenses mentioned in any of the laws that Congress has passed, although they might be liable to punishment under the State laws, has been punished under the State laws.

Massacre—and I do not speak of this in a political sense but only in the sense that it is an unhappy thing—the massacre at Hamburgh and Edgefield or Laurens or wherever it was in that State—and I only speak of that as an illustration, not to make an invidious complaint about that State rather than others—everything that has happened in those States in violation of the rights of citizens of the United States which the Constitution secures and which the Supreme Court of the United States have said the Constitution secures, seems to fail of being vindicated in the State courts. There may be good causes for it. I am not speaking in the sense of crimination or complaint, but only in the sense of exercising a clear jurisdiction of Congress in a case where for some reason or other, good or bad, the States have failed to vindicate the purity of the ballot-box in respect of elections which the Constitution and the courts say may be regulated and protected by Congress.

Mr. HILL. Mr. President, it must be conceded by every Senator on this floor that no legislation contemplated by the Senator from Vermont, or any other Senator, can be perfected and made law during this session of Congress. We have but a few weeks more left. There are a great many other important practical measures, more or less matured, that can be disposed of if we go to work on them, many of which will not be disposed of if we continue this discussion or undertake to bring in a bill here according to the Senator's peculiar theory or notions as to what is proper. His measure will not be perfected. The Senator cannot pretend that such a law will be enacted during this session of Congress at this late stage of the case, and yet other business may be greatly prejudiced by this delay which will work no good.

Then, again, the Senator has been a distinguished member of this body for a great number of years. The thirteenth amendment has been in force now about fourteen years. The fourteenth amendment has been in force for about ten years; the fifteenth amendment has been in force for about eight years, and the Senator has never brought forward the measure he now speaks of to carry them out as appropriate legislation.

Then, again, this discussion has developed the fact that after all he does not base his motion for new legislation upon either of these amendments. He bases his motion for legislation upon a clause of the original Constitution, the fourth section of article 1, which has been in force always since the Constitution was adopted. It is now a late day here in the last days of this session of Congress to be moving this legislation when it has not been moved heretofore, and the very suggestions of the gentleman as to what he calls fraud in one portion of the Union—and we get suggestions from other gentlemen as to frauds in other portions of the Union—can none of them be provided for, and as to all of them there are issues of fact, and investigating which are committees of this body now in action not yet ready to report, and we do not know that they will be ready to report during this session of Congress. At least I presume no committee would undertake to frame appropriate legislation until it should get the facts from those investigations. It is therefore, in my judgment, a foregone conclusion that there can be no legislation at this session of Congress, and the attempt to legislate upon this subject at this session will not only fail in that particular but it will delay and injure other important legislation that might be accomplished. I do not think that the country will be benefited or the Senate will be enlightened by different gentlemen expressing their opinions as to the meaning of these amendments by voting for this resolution or that. I frankly confess to the Senator from Vermont that none of these resolutions suit me. His resolutions do not suit me. I frankly confess that the substitute does not suit me, and really, to take the matter as a whole, I do not think we should vote for the original resolutions or for the substitute that is before the Senate. I see no good to be accomplished by it, and therefore I repeat that I think the practical way and the wise way to dispose of this matter is to lay it all on the table.

Mr. EDMUNDS. Mr. President, the sum of the whole matter is then just this, that while the political party to which my honorable friend now belongs, as a body voted against the thirteenth amendment of the Constitution of the United States prohibiting slavery, that while that party voted against the fourteenth amendment of the Constitution solid as securing the equal protection of the laws to all citizens; that while they voted solid against the fifteenth amendment prohibiting——

Mr. LAMAR. Mr. President——

Mr. EDMUNDS. If the Senator will pardon me for a moment, I should like to make my statement, and then he can interrupt me. While that party voted against the fifteenth amendment prohibiting race or color distinctions in respect to the right to vote, and while I believe I am not mistaken in saying that after these three amendments had respectively passed the two Houses of Congress against the votes of the great body, I might almost say the unanimous votes of the democratic party, when they came to the States for their ratification, every State that when these amendments were respectively presented, possessed a democratic Legislature, refused to agree to them. If there be an exception it has escaped my notice; and it went so far that in respect to some States that had ratified these amendments, when there came in the changes of local politics a democratic majority into the Legislatures, they voted to withdraw their assent and ratification of these amendments——

Mr. MORGAN. I will ask the Senator from Vermont——

Mr. EDMUNDS. The Senator will pardon me a moment until I finish my statement. I wish to get it altogether for once.

The PRESIDING OFFICER. The Senator from Vermont declines to yield.

Mr. EDMUNDS. When these amendments thus having been at last made a part of the fundamental law of the land in spite of the steady and persistent opposition of the great body of that party to which I refer, and Congress then undertook to carry them into execution by law, there has never been proposed a scheme of legislation to carry any one of these amendments into effect or any part of them that did not receive the solid opposition of that party. What then? Why the consequence is obvious that when that party comes into power, if it ever does, so that it can control all the branches of the Government so as to make a law, if that party is consistent to its opinions as they have been before expressed, there is no single clause in all of these statutes, consistent with the Constitution as the Supreme Court has decided, that will not be swept from the body of the laws of the United States, and there will be remitted, therefore, to the States and to the States only, each acting for itself, Vermont in one way, South Carolina or Georgia or Mississippi in another, and to their discretion the decision of whether it is worth while to execute the supreme law of the land. That is what it comes to. If you failed to repeal these statutes, there would be infused into the administration of the law that kind of delay or non-action that would leave every one of these laws a dead-letter on the statute-book. And it has gone so far now, as this debate shows, that it is not, as it is said, competent for Congress to protect the right of a qualified citizen of a State to vote for a member of the other House of Congress, that the Congress has no right to interfere in respect of the manner by which one branch of our great national assembly is to be chosen, although the Constitution in express terms says that it may; and why? Because as it now appears, my honorable friend from Georgia says in the North as well as the South, that under State laws and State administrations wrong, tyranny, violence, oppression, exclusion, fraud, have entered into the elements that are to compose the other branch of Congress, and that crimes and wrongs of that description go without punishment and without redress; but if we are to act all this violence and oppression and fraud against the Constitution will be redressed. That is where we stand. And yet my honorable friend from Georgia says "do not let us consider this subject; a committee cannot report; you cannot get a law through." Why not? If you charge a committee with the duty, very likely it will attempt to perform it. If you are in favor of any such law, why can you not pass it? If a committee should report it, we shall know who is in favor of the law and who is not. That is all there is to it.

The real difficulty, I think, Mr. President, is that which the history of these amendments and of the legislation to execute them discloses; and that is that the party with which my honorable friend from Georgia is associated prefers that there should be, as the State of South Carolina insisted in 1832 and 1833 in reference to the removal of causes and the tariff laws, which I referred to yesterday in reply to the Senator from Delaware, that there should be left to the supreme power of the States the opportunity practically to nullify every security that the Constitution gives to the nationality of citizenship and to the universality of the right of every citizen to vote freely for the Representative he would have in the other House, and to declare that whatever a State chooses to omit to do so that it gains by it shall receive by acquiescence the approval of Congress. Now, if Senators wish to occupy that attitude, very well; only let us know what the attitude is.

The PRESIDING OFFICER. The question is on the motion of the Senator from Georgia to postpone the pending resolutions and all the amendments until the 5th day of March next.

Mr. KERNAN. Mr. President, as I am to vote I want to say a word, not to make any speech. I have not believed, and do not now believe, that we very wisely or effectually for any purpose spend time in discussing general resolutions. I simply wish to say that I regard the thirteenth, fourteenth, and fifteenth amendments as a part of the Constitution, as binding upon me as any other part in acting officially as a legislator or in any other capacity; and whenever laws are brought forward to protect any citizen from wrong or outrages which it is within the constitutional power of Congress to enact I shall be ready to aid in perfecting such laws; but I do not think that votes upon these resolutions or discussions of these resolutions will aid me much when we come to the duty of practical legislation. When laws are proposed to correct evils which exist, which we have a right under the Constitution to prevent, I shall be ready to aid in their enactment.

In reference to what the Senator from Vermont says that we are against certain laws, I do not know what he means; but I say that when we are to pass laws, so far as we have a right to enact them, to protect citizens in the exercise of the right of franchise, I shall want a very different character of laws from some of those now on the statute-book, which have been, and I fear will be, a mere machine to send men to certain States for political purposes under the pretense that they are the guardians of some class of voters.

Mr. EDMUNDS. Mr. President——

Mr. KERNAN. I shall be through in a second.

Mr. EDMUNDS. I merely wish to ask my friend——

Mr. KERNAN. Let me get through. I voted to take up these resolutions; I desire that we shall dispose of them. I have not believed that we could justly toward the people of the United States spend day after day on general abstract resolutions in a short session, when we are called out to go to committees to try to get through measures here and perfect them, and need the time to do it in, which are important to the great mass of our people. When practical laws are brought here, I say again, to protect persons from wrong so far as Congress has the right under the Constitution to do it, I will give them my best attention, and I will vote conscientiously for the laws if I believe them wise and constitutional.

Mr. EDMUNDS. The question I wished to ask the Senator from New York was if he is not in favor of the laws or any of them that already exist, what law it is that he is in favor of?

Mr. KERNAN. I will answer. I have not examined these penal laws in detail; I have given no special attention to the subject in this debate because I have thought these were mere resolutions that would amount to nothing, and I am not prepared to point out their details; I am not familiar with them. I only know that some of them, it is said in debate here, and the Supreme Court have decided, were unconstitutional, as the decisions read show, and when the Judiciary Committee, for which I have great respect, propose laws which they think are constitutional and which will be effective, I will give them my best attention and cast an honest vote, believing the entire Constitution binding upon me.

Mr. EDMUNDS. I accept the explanation of my honorable friend. The end of these resolutions calls upon the Judiciary Committee to consider and report exactly that sort of law. Now the Senator says "I will not allow the Judiciary Committee to do anything of the kind; I am very much in favor of the law, but I am very much opposed to taking any step to enact it."

Mr. KERNAN. Does the Senator from Vermont himself think that that is a fair statement of my position?

Mr. EDMUNDS. I think it is.

Mr. KERNAN. Very well. Then I only ask every voter to read these general resolutions and see to what law they lead. The Judiciary Committee did not need any resolution to authorize them to propose laws here. Long ago in the session if the Senator thought so he could have brought them forward; and he does not need my vote to say that they have a right to do it or anything of the kind, nor can I give a vote specifying or indicating even to my own mind what sort of laws they want to bring in. They need no power from us.

Mr. EDMUNDS. The trouble with my friend's observations is that he seems to shut his eyes to the end of these resolutions. The last clause——

Mr. KERNAN. I have just read them.

Mr. EDMUNDS. It authorizes the Committee on the Judiciary to consider and report exactly that thing. He says he is in favor of laws that shall protect these rights as far as the Constitution will allow us to do it, and yet he says he will not vote for a resolution which requires a committee of this body to consider and report any such laws.

Mr. KERNAN. Is it the pretense that he needs my vote, with a majority of his own party on the committee, to authorize them to do their duty? If they believe there are grievances, that people suffer a violation of their rights under the Constitution, which they can bring in laws to stop, why not report them and not spend the time of the Senate in a political debate here day after day to get us to vote on the resolutions? There are other parts of them which are not very clear to my mind.

Mr. EDMUNDS. It is the Senator's own friends who have spent the time in political debate.

Mr. HILL. Mr. President, I am astonished at what has fallen from the Senator from Vermont. He seems to talk as though he and his committee needed the authority of this Senate to bring in a bill. That Senator knows as well as any other man can know that he had just as much right and just as much authority to bring in such a bill as he deemed the exigencies of the country needed when he brought in these resolutions as he had to bring in the resolutions themselves. He brought in abstract resolutions here on the 7th day of January. Under his own lead we have expended a whole month upon abstract resolutions. That is wasted, and the Senator complains now that the Senate will not spend still more time debating an abstract proposition to give him and his committee authority to do that which he and his committee have full authority to do without instructions from this body.

Mr. EDMUNDS. I have not complained, if the Senator will par-

don me, that the Senate will not spend more time in debate. I am sure gentlemen on this side have not occupied an hour and a quarter in the whole period of time. It is the gentlemen on the other side who have devoted themselves to spending time in debate.

Mr. HILL. Time has been expended, and under the lead of that Senator we have lost one month of a short session, and at the last end of that short session, and the gentleman comes in here and charges that we are not willing to execute the amendments!

Mr. EDMUNDS. That is what I think.

Mr. HILL. We are as willing to execute the amendments as the gentleman; and we think the manner of executing the amendments is not by introducing into this body resolutions of abstract propositions which mean nothing, but in bringing forward legislation that the mover deems proper. The Senator from Vermont is the organ of this body in its judicial functions; he is the head of the Judiciary Committee; he belongs to the committee that has this special matter in charge and that had the right and privilege and the authority, and if the gentleman will have it, upon whom is the duty of bringing in any such legislation as he deems necessary to carry out these amendments. The gentleman has sat here twelve long years, and he has not brought in this legislation. He says now that the decisions of the Supreme Court have largely emasculated the laws that have been enacted, and yet those decisions of the Supreme Court were pronounced several years ago with the full knowledge of the Senator from Vermont, and he, sitting here the chairman of the Judiciary Committee of the Senate, has not brought forward the legislation to correct what he considers the defects left by reason of these decisions, and here in the last stage of the session he chooses to taunt us with not being in favor of legislation. Suppose you pass these resolutions, is that action a law; does that bind anybody? Do these resolutions specify what character of legislation you want? Does not that Senator know, and know well, that legislation to cover this subject must be elaborate, must be important; and no man can judge whether it will be wise or unwise, constitutional or unconstitutional, until the legislation in its totality is presented to this body, and no man is so competent to frame the legislation necessary for the emergency as the Senator from Vermont.

Mr. EDMUNDS. And yet you are quite unwilling we shall be allowed to do it.

Mr. HILL. No, sir, you are allowed to do it. Why are you not allowed to do it? Does the gentleman need a command before he will do his duty? He could have brought in a bill any morning this session and by right had it read from that desk and referred to the Judiciary Committee without debate. He could have brought in the bill that he thought sufficient to carry out these amendments on the 7th of January when he brought in these resolutions, and on that day the bill brought in by himself could have been referred and would have been referred without debate to the Judiciary Committee, and the whole month that has been exhausted in debating this abstract proposition, which means nothing when it has passed, will accomplish nothing when it is adopted or rejected, which gives him no light and no authority and no direction, could have been spent in debating the bill. What right, therefore, has the gentleman to say to me and, as he declares, to the party to which I belong that we were not willing to adopt legislation to carry out these amendments? Who, if not the Senator from Vermont, was the proper man to initiate legislation for this purpose? Who but he who is intrusted as the organ of the Judiciary Committee of this body? If this legislation ought to have been presented before and has not been presented before, who is to blame? Who is at fault? Are we to be told that because we do not propose to pass a resolution that means nothing, therefore we are opposed to proper legislation, which has never been presented, which has never been proposed? I say to the gentleman, let him bring forward his bill, frame such legislation as he thinks is needed to carry out these constitutional amendments, then bring it into this body and see whether we are willing to support it or not.

Sir, I had no such purpose in making my motion. I had no idea of charging the gentlemen on the other side with delay or unwillingness to do their duty, and I little expected such taunts to come from the Senator from Vermont. When have we manifested a disposition to delay anything? The gentleman says the fifteenth amendment was adopted without the vote of the democratic party, and so was the fourteenth amendment, and so was the thirteenth amendment. That may be all true; but when we come forward, as I said, in a manner that ought to gratify the whole country and declare that we recognize these amendments as part and parcel of the Constitution and we are ready to vote for any constitutional legislation necessary and wise in carrying out these amendments, it does not become the chairman of the Judiciary Committee, the gentleman upon whom above all others rests the responsibility of initiating the proper legislation to carry out the amendments that all of us agree to, to taunt us with an indisposition to carry out the amendments.

But, as I said before, the gentleman's second resolution that he proposes now to adopt is not based upon the constitutional amendments, the thirteenth, fourteenth, or fifteenth. I listened to his argument yesterday with immense pleasure. It was a very able argument, and that argument on yesterday by which the Senator was endeavoring to prove that this second resolution of his calling for legislation ought to be carried out, was based wholly upon the original Constitution. His speech shows it. He does not propose to carry out by these resolutions or by the legislation he proposes by this second resolution the thirteenth or fourteenth or fifteenth amendment. He tells the Senate that he proposes to carry out the fourth section of the first article of the Constitution. The Senator has been here twelve long years, and has never deemed it necessary to bring in a bill to carry out the fourth section of the first article of the Constitution, to which we have all agreed from our infancy up, which we did not oppose, which no party in this country has ever opposed; and yet here, sir, as I repeat, at the heel of the session, the gentleman complains that we are not willing to waste more time from the important practical legislation of the country to give him authority by abstract resolution what he already has the authority to do, what he has had all the time authority to do, and what in doing he needs no instruction from the Senate.

Therefore I made the motion in perfect good faith. I see that we have several propositions here which may delay us much longer; I do not know how much longer. The gentleman says he is willing to quit. I suppose after having debated the question as elaborately as he has he is in a good condition to quit. Other Senators on this floor may feel their responsbility to the country for the vote they give on these resolutions as much as the Senator himself; and if each Senator on this floor takes as much time to debate the resolutions as the Senator from Vermont has taken, the 4th of March will come and find us debating these resolutions. Every Senator has the same right to debate them that the Senator from Vermont has. I do not know how many Senators may choose to debate them. Then, again, we have several propositions before us. The Senator from Vermont comes in with his original resolutions; the Senator from Alabama brings in his substitute; the Senator from Arkansas offers a very material and important amendment to that substitute; and there are other amendments still to be offered. This debate may become complicated. Various questions may arise not now anticipated, all abstract, all worthless, all unnecessary, all conferring no authority to the Senator or his committee that they do not already have. But this debate has developed one great fact, that we all agree to the validity of the amendments, that we all agree that the amendments ought to be carried out. Let the Senator with that authority go on and frame the legislation that he thinks necessary to carry out the amendments, and we shall then see whether we will vote for it or not; and when we refuse to do so there will be time enough for the gentleman to charge us with not doing anything to carry out the constitutional amendments.

Mr. HEREFORD. Mr. President, I have not risen for the purpose of debating the resolutions, or the substitute, or the amendment. I think the people of this country are expecting something else at the hands of the American Congress besides the discussion of these abstract propositions. I think we have consumed time sufficient on that subject. There is more important and practical legislation demanding our attention. Instead of the discussion of these constitutional questions we need the discussion of questions that will give bread and butter to the people of this country. We are not here for the purpose of laying down political platforms for one party or the other. Therefore, Mr. President, I move the indefinite postponement of the resolutions.

The PRESIDING OFFICER. The question is on the motion of the Senator from West Virginia that the pending resolutions and the amendments thereto be indefinitely postponed.

Mr. EDMUNDS. Mr. President, profession is one thing and practice is another. It is all very nice for a few dozen gentlemen on the other side to get up and say that they are in favor of the Constitution of the United States with all its trimmings and refuse to do anything about it. It is very easy to say that, and I know of nobody more capable of saying it than my honorable friends on the other side. But when it comes, as it has in times gone by, to proposing to do anything about it, then the gentlemen say, Oh no; oh no; it is too late, or it is too early; it is too vague, it is mysterious, it is too something; never let us do anything about it at all.

Here is a resolution which declares that certain amendments of the Constitution have been legally ratified and are valid; that all the people of the United States have a common interest in their enforcement. The Senators, all those who have spoken, say "We are all for that, but we are not in favor of putting our names on record in favor of it." Four or five out of forty or thirty-six, whatever the number is, may say that they are in favor of it in the abstract; but when you come to the concrete of proposing to say so on record instead of in the speeches of four or five of the number, they say "Oh no it is all fustian; it leads to debate;" and it evidently does. Those gentlemen are determined not to put themselves on record in favor of what they say they believe in, and what I must suppose they do. There is the difference, Mr. President, between profession and practice.

It has been so all the time. When the thirteenth amendment was proposed everybody on that side said, I believe, in debate, "Why, slavery has gone by; the proclamation of President Lincoln abolished slavery as an act of war, as the Supreme Court have already said;" when it was also said that the Congress of the Republic was not willing to leave it as an act of war, but wished to make it perpetual against all possible question by amendment to the Constitution. Our friends on the other side then said, just as they say now, "Do not say that; do not ask us to vote for any such thing; it is all done;" and so they voted against it; and so of the next and the

next; and so of every law that has been proposed to effectuate any part of these amendments, as I said before. And now when we propose that a committee of this body shall be called upon to consider and to report a bill which shall protect the citizens of the several States and of the United States in the right to vote for members of Congress and punish infractions of that right, they say that is not practical; that it might have been done before; that the committee is in fault that it did not do it before. Suppose the committee is in fault, is it not a good time to do it now? What sort of an argument is that addressed to the Senate which says that a committee or some member of that committee, like myself, has failed in duty in not proposing something before which ought to be done; therefore the Senate will not propose to do it now; we will ignore the whole subject and send it away because a committee has failed to do what it ought to have done! If Senators can stand on that sort of logic or that sort of patriotism, then let them stand. As was said on a memorable occasion about the eyes of Delaware being upon a certain officer, the eyes of the people of the Republic are upon us now. They know what all this thing means, I think; and they will know hereafter what it means; and while one party in this country professes that it believes in these amendments as valid, and yet is unwilling to take any step which shall give vitality to these amendments to carry them into execution; that no law has been proposed or can be proposed that any one of these gentlemen will vote for; and in order to avoid voting "yea" or "nay" upon any of these propositions they say, "let us postpone it." If Senators can stand that, we can; but let us vote.

Mr. HILL. Mr. President, just one word. The distinction which the Senator draws between profession and action is a correct one. It has been long recognized. Men often profess a willingness to do that which they do not do; and the loudest professors of a desire to do are those who select a time to profess when they know they cannot do.

Mr. EDMUNDS. We can, if you will only vote.

Mr. HILL. The Senator knows perfectly well that to pass the legislation he proposes during this session of Congress is impossible.

Mr. EDMUNDS. It is because my honorable friend and his associates will not vote for it.

Mr. HILL. The Senator knows that there are two hundred and ninety-three members of the other House and seventy-six members of this body, and the Senator knows that no legislation of this kind can pass this body. I am speaking practically, without exhausting this session by discussions on the details of the legislation. If that Senator had the autocratic power to frame what he desired to be law and could command everybody to obey it without discussion, he might carry his purpose; but he knows perfectly well that as a practical question it is impossible to pass the legislation he proposes at this session of Congress, even if we neglected all other business. The Senator knows that he has chosen a most opportune moment to come in and make profuse professions of his readiness to carry out the constitutional amendments.

Mr. EDMUNDS. Suppose you try me by letting me see what the committee can do.

Mr. HILL. Suppose you try yourself. Does anybody prevent the Senator from Vermont from bringing in a bill? Has anybody prevented the Senator for twelve years from bringing in a bill? Is the Senator such an inapt scholar that he does not know what to do until we tell him? Is he chosen to lead the Judiciary Committee and the judicial counsels of this body and yet needs to be instructed in the business of that committee? Sir, the Senator excites my suspicion that he does not want to be instructed. Anybody who knows that Senator knows that he does not need to be instructed, but that when he wants to do a thing he does it. All this pretense, I beg pardon, but this exhibition, of extraordinary readiness and patriotism on his part and extraordinary dereliction on our part comes here at the heel of the session under the suggestion that he cannot do what he wants to do until he is instructed by the Senate.

Yet the Senator continues to charge something upon this side of the Chamber. He is responsible for this discussion, not I. He says now that we who are willing to do, profess to be willing but will not do. I might say that the Senator is unwilling to do. He has been a member of this body, I believe, for twelve years, and he has not done it yet. He knew the fourth section of the first article of the Constitution as well twelve years ago as he understands it now. He knew the legislation necessary when that decision of the Supreme Court was announced several years ago as he knows it now. If I were disposed to stand in my place and impeach the sincerity of Senators by charging them with making professions of a willingness to do what they did not intend to do, I might turn the chances upon that Senator himself; but I will not do it. I will say, however, that it is not becoming the chairman of the Judiciary Committee of this body to come before the country and charge us with a disposition to evade a duty in this regard which he has evaded for twelve long years and put it upon the pretext that we have not instructed him to do it.

The Senator from Vermont talks about wrongs and frauds in the South and wrongs and frauds in the North, and the inefficiency of State legislation; and he claims that the powerful arm of the General Government is sufficient to correct all these wrongs by the simple enactment of a law which he was authorized to present any day of any session of this Congress. He has not done so, but at the heel of the session he comes here and charges us with dereliction. I do not want to charge that Senator with dereliction, and I will not do so; but the people of this country, as he wisely says, will understand this thing. They will understand it perfectly. The American people are celebrated for their good sense. The Senator's remarkable speeches to-day were not needed to create a suspicion in this country that the real object of these resolutions was party capital and not legislation. I do not say that it is the object; I do not charge it upon the Senator; but I say the suspicion exists, and if anything were wanting to give voice to that suspicion, it is the remarkable exhibition we have had from that Senator here this morning. There is not a Senator on this floor who will stand up in his place and say that, looking to the ordinary character of legislation and looking to the ordinary history of legislation, the legislation which he proposes by these resolutions could be matured and perfected and passed through both Houses at this session of Congress, and the time consumed in passing these resolutions simply injures all other business and accomplishes no good.

Mr. MORGAN. I believe the question before the Senate now is upon the indefinite postponement of the entire subject.

The PRESIDING OFFICER. That is the question before the Senate.

Mr. MORGAN. I hope my friend from West Virginia will not press that motion this evening.

Mr. EATON. Will my friend from Alabama give way for a motion to adjourn?

Mr. MORGAN. Yes, sir.

Mr. EATON, (at five o'clock and ten minutes p. m.) I move that the Senate do now adjourn.

The question being put, there were on a division—ayes 22, noes 28.

Mr. EATON. I call for the yeas and nays, because every Senator who was paired on this side declined to vote on the ground that this was a political question, while I see friends of mine whom I know are paired voting upon the other side. Let us have an understanding; therefore I ask for the yeas and nays.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. HOAR, (when the name of Mr. DAWES was called.) My colleague [Mr. DAWES] is paired with the Senator from Connecticut, [Mr. BARNUM.]

Mr. EDMUNDS, (when his name was called.) On all political questions I am paired with the Senator from Ohio, [Mr. THURMAN;] and as this is plainly a political question I ask to be excused from voting.

Mr. HEREFORD, (when his name was called.) On this subject I am paired with the Senator from Nevada, [Mr. SHARON.]

Mr. WITHERS, (when the name of Mr. JOHNSTON was called.) On this question my colleague [Mr. JOHNSTON] is paired with the Senator from California, [Mr. SARGENT.]

Mr. JONES, of Florida, (when his name was called.) I am paired with the Senator from Michigan [Mr. CHRISTIANCY] on all political questions. I suppose if he were here he would vote "nay" and I should vote "yea."

Mr. KIRKWOOD, (when Mr. MCCREERY'S name was called.) The Senator from Kentucky [Mr. MCCREERY] said to me before he left the Chamber that he was paired with my colleague, [Mr. ALLISON.] I wish to have that fact noted upon the record.

Mr. MERRIMON, (when his name was called.) Upon political questions I am paired with the Senator from Kansas, [Mr. INGALLS.] I should vote "yea," and I take it he would vote "nay," if he were present.

Mr. WADLEIGH, (when his name was called.) Upon this and other political questions I am paired with the Senator from Maryland, [Mr. WHYTE.] If he were present, I should vote "nay."

Mr. WALLACE, (when his name was called.) Upon all political questions I am paired with the Senator from Maine, [Mr. BLAINE.] I do not regard this as a political question, but as Senators seem to divide upon it as though it were, I decline to vote. If the Senator from Maine were here, I should vote "yea."

The roll-call having been concluded, the result was announced—yeas 21, nays 31, as follows:

YEAS—21.

Bailey,	Eaton,	McDonald,	Saulsbury,
Beck,	Garland,	McPherson,	Voorhees,
Butler,	Gordon,	Maxey,	Withers.
Coke,	Harris,	Morgan,	
Davis of West Va.,	Hill,	Randolph,	
Dennis,	Lamar,	Ransom,	

NAYS—31.

Anthony,	Conover,	Kernan,	Patterson,
Bayard,	Dorsey,	Kirkwood,	Plumb,
Booth,	Ferry,	McMillan,	Rollins,
Bruce,	Hamlin,	Matthews,	Saunders,
Burnside,	Hoar,	Mitchell,	Spencer,
Cameron of Pa.,	Howe,	Morrill,	Teller,
Cameron of Wis.,	Jones of Nevada,	Oglesby,	Windom.
Conkling,	Kellogg,	Paddock,	

ABSENT—24.

Allison,	Davis of Illinois,	Ingalls,	Sharon,
Barnum,	Dawes,	Johnston,	Shields,
Blaine,	Edmunds,	Jones of Florida,	Thurman,
Chaffee,	Eustis,	McCreery,	Wadleigh,
Christiancy,	Grover,	Merrimon,	Wallace,
Cockrell,	Hereford,	Sargent,	Whyte.

So the Senate refused to adjourn.

Mr. MORGAN. Mr. President, the object of the Senator from West

Virginia [Mr. HEREFORD] is that the entire subject of these resolutions should be indefinitely postponed. It is necessary that we should refer to history for this proceeding before the Senate in order to understand the subject of the responsibilities of this occasion. The Senator from Vermont of course had a perfect right to introduce his resolutions here, and he has proved to the last, and by the severest struggle he has maintained, his ability of bringing his party up to the support of them. The Senator from Vermont has frequently adverted to the fact that I, being somewhat in charge, having offered the substitute for his resolutions, was representing the entire body of the democratic party on this side of the Chamber. The party line, it seems, has to some extent been drawn, and on my part I am entirely willing that the responsibility of voting the resolutions of the Senator from Vermont should be assumed by the republican party on this floor. I am entirely willing that that should be done, not only with reference to the substance of the resolutions, but also with reference to the time at which they have been brought to the attention of the people of the United States.

The Senator from Vermont on the 7th of January introduced these resolutions. Afterward on three several occasions when votes were called by yeas and nays he did not have the ability to bring them to the attention of the Senate. The democrats on this side of the Chamber did not desire to have this question debated before the country, not that they were reluctant to express their opinions upon it, but because they felt that it was the intrusion before the country of a mere question of party tactics without any reference to the public good. We were perfectly advised on this side of the Chamber, if the remarks which have just fallen from the Senator from Georgia be true, that it was neither contemplated nor could it be possible that any public good could result from the discussion of this question in the Senate; that the introduction of the resolutions into the Senate was an interruption of the current of public business; and that it would cost this country thousands and hundreds of thousands of dollars in expensive legislation and perhaps a great deal more than that in the anxieties which would grow out of the debate, without its promising one cent of advantage to any person whatever. It was believed on this side of the Chamber that it would be our duty to postpone or rather not to engage in the discussion of these resolutions, because, as the Senator from Georgia well observed, no possible good could result from them, no practical legislation could be gained at this session of Congress or perhaps hereafter which would have a tendency to carry into effect any proposition contained in these resolutions, indefinite, vague, and uncertain as they are. Hence, on this side of the Chamber, having seen the Senator from Vermont three times defeated, not merely by the opposition of the democratic party but by the want of support in his own, three times defeated upon this floor on the call of the yeas and nays, at last he came in, and I believe it was on the 22d of January—perhaps I am mistaken in the day—we aided him to bring these resolutions to the attention of the country.

Mr. EDMUNDS. Will the Senator allow me to suggest to him, because I hope I shall say nothing more in this debate, that my friend and a few of his associates came in when their votes were quite unnecessary, for without them we should have carried it.

Mr. MORGAN. At what date was that?

Mr. EDMUNDS. At the date the Senator speaks of, when the resolutions were finally taken up.

Mr. MORGAN. That was on the fourth trial, when the Senator's friends had failed him on three trials previously.

Mr. EDMUNDS. I know the Senator and his friends voted when their assistance was quite unnecessary.

Mr. MORGAN. I am sure the most remarkable thing that ever occurred in the history of the Senate was that the Senator from Vermont, the confessed leader of the republican party, was not able to marshal his hosts on three occasions to bring his resolutions to the attention of the Senate. At last we gave way on this side, and concluded that we would bring them up; and when we did bring them up, the Senator from Vermont not only failed but refused upon my challenge to take the floor and explain his resolutions. He wanted the chance for a reply. A magnificent man who has so long occupied the floor of the Senate, knowing that he was antagonized by one who was not only young here, but perhaps he might have known that it was one who had never before occupied a position on a legislative floor during his life, did not have sufficient confidence I suppose in himself or his resolutions to get up and amplify one word of that occult and hidden scheme of his by which the world might know what was its true and real meaning. He wrapped up his views in generalizations, and supposed that he had concealed them from the light. Then it devolved upon me, as the gentleman who had been requested by some of his associates here to make some explanatory remarks in reference to the substitute which I offered, to get up and do what? To anticipate all that the Senator might be expected or could possibly say upon these resolutions, and meet by way of anticipation the arguments that he ought to have at least honored the country with if he could not condescend to accommodate the country with them.

That was the attitude. We have gone on until to-day; the Senator now seeks to make a virtue of that remissness which on his part has been a screen for his opinions, and says, "I would not have debated these resolutions; I brought them before the country on three different occasions; I demanded the yeas and nays, and was beaten by my own party, or for the want of their attendance in bringing them up; I have not brought them up before the country;" because the Senator from Vermont could not get them up; and when at last we helped him to bring them before the country he now complains of us that we debate them! That is the attitude precisely of this question before the Senate!

Now, Mr. President, I do hope that in view of this brief recital of facts, which the record bears me out in in every particular, the democrats on this side of the House will not indulge the Senator from Vermont in his escapade from a further debate on his own resolutions. He has yet something to say about them. The Senator, I dare say, would like now to get out of this business; he has perhaps said now more than he can sustain. The records of the Senate bear statements upon their face which the Senator must answer to now or hereafter, and it is altogether reasonable on his part that, not having had the support of one solitary man on that side to get up and advocate his resolutions, he should desire that the debate should be closed, and in closing it that he should express the desire that it should close because we were protracting it. Sir, we have had no connection with the protraction of this debate for one moment; we have only given the necessary explanation of our own views on this side of the Chamber.

The Senator has brought before the country a measure of the most indefinite possible character, in which he refers to laws of a certain general character without having specified in any particular what those laws are to be, and he wants the Committee on the Judiciary, of which he is the chairman, to be instructed to bring in a law of the general character of those laws heretofore enacted for the purpose of carrying into effect the fourteenth and fifteenth amendments. Sir, if he will refer to the catalogue of laws that have been enacted by the Congress of the United States having for their purpose the carrying into effect the Senator's views of the fourteenth and fifteenth amendments, he will find the laws which have been referred to by the Senator from Florida, imposing upon the communities in the Southern States the odious prohibition of their right to discharge that simplest duty to one's country of serving on a jury. We find that those are laws of the same general character that he wants, not only to perpetuate, but to enact under the influence of his resolutions. And, sir, there are many others; and whether or not the Senate shall consent that we shall bring these laws to the attention of the country, we shall show that there is included in the programme of the Senator from Vermont the re-enaction of all these odious laws, some of which have been repealed and afterward by stealth and corruption put back into the Revised Statutes. Whether or not the Senator desires that we shall bring to the attention of the country all these odious measures included within the purview of his resolutions, I hope our friends on this side will so act as to enable us to bring these laws in one after another and present them to the country and see whether or not the republican party on that side are willing again to indorse and to swallow them all at the bidding of the Senator from Vermont.

The country has passed away from those laws. Their evil influences and effects have been felt all through the land. They have disturbed society throughout not only States but vast sweeps of the territory of the United States. They have caused bitterness of feeling; yes, they have caused despair in the hearts of patriots. We have passed beyond their reach. Some have been repealed, some declared to be unconstitutional, some, after they were repealed, were brought back into the statutes by a fraud upon legislation. The Senator's resolutions invoke the whole mass; and before we conclude this debate I hope our friends will let us show what this mass is to the people of the United States; for, when the other side of this Chamber shall adopt a resolution that commands the Senate of the United States, through its Judiciary Committee, to report back here for consideration a bill or bills that will again pluck from their deserved doom of condemnation these measures of outrage and oppression, we would like to have the country know what is included in the whole purview of these resolutions.

The Senator cannot limit it according to his own private wish to such laws as he as chairman of the Judiciary Committee may deem proper to bring forward; for in his resolutions he has encompassed the whole subject and required the Judiciary Committee to report a bill which shall include them all. Now, I want to ask the republican party on that side of the Chamber do you mean to return to all these laws that you supposed were necessary for the reconstruction of the States? Do you mean to return to every statute that you have hitherto enacted? Do you intend to cull from these statutes not merely the spirit, the animus, but actually the provisions that have been allowed to prevail in this country for the purpose, as we think on our side, of merely obtaining political ascendency, but, as you contend, for the purpose of the enforcement of the Constitution of the United States in all parts of this nation? Do you intend to go back now, requiring of us that we shall assent to your going back and bringing up all these measures and bringing them back again before this country? If you do, your purpose is only to stir up strife in this land, your purpose is only to disturb that prosperous commerce which now pervades the country and gives us a magnificent balance of trade when considered with reference to the other powers of the earth. If you do, your purpose is merely, for the sake of party gain, party ascendency, and party power, to disturb all the industries of this country, to prostrate labor, to make the poor man poorer and the once

rich still more deeply buried in the depths of despair. That must be your purpose, because there is no good to result from it, there is nothing to be achieved by it, nothing to be accomplished by your resolution. You have not pointed out the facts that lead the country to demand reformation in the laws. You have not pointed out the incident in the recent history of the United States which seems to require that there should be this additional legislation. You have pointed out no evil; you have not undertaken to separate from what may exist in your own mind as a mass of evil or of conjectures of evil and display before the Senate the point in which you think there is a necessity for this additional legislation. Having failed to do so, the purpose of those who advocate and press these resolutions can be none other than merely further to excite and further to disturb this country; and in the further excitement and in the further disturbance of it, whether designed or not, there will result an immense sacrifice of all the material interests of the people.

Now, we are not guilty of having brought this subject before the Senate and the country. We are not guilty of a desire to have it brought here. On three distinct occasions we evinced our firm and settled purpose, as shown by our votes, that it should not be dragged before the country, and finally, rather than suffer under the imputation that we were afraid to meet these propositions, that we were not firm and decided in our convictions on these propositions, we aided the Senator from Vermont in bringing them up; and now, when this question opens, and the Senator finds that it is inconvenient to develop the facts which attend and surround us on this occasion, he seems to complain of us that we dare to speak upon them.

I hope no man, especially from my section, will ever have provocation to make any allusion whatever to the disturbance of the past. I want those on the other side to understand us better, and know that it is our desire to serve this country in honesty and in singleness of purpose. I would that they could feel that we indeed intend to abandon all the dead past and to fasten our eyes upon the great future of this beautiful and great land. I would that they could at last permit themselves to know, as they did before the years of the recent great convulsion in this country, that there are patriots in all sections of this country who desire its prosperity, who are animated with a love of its glory and a feeling of triumph in all its successes. If they could believe that of us, then there would be no necessity for putting fire-brands in the country. There would then be no necessity for undertaking to put the South in a false position. And these resolutions mean no more and no less than that. We can place before you propositions connected with law, with the Constitution, and upon which we may expect that you will come forward with acrimonious and bitter and heated debate. You may expect that the passions which you think are slumbering in our bosoms will be stirred by these exciting influences with which you attempt to affect us. It is thought on that side that if there is a protracted debate some man or men on this side will do something that will add further stimulus, further flame to that fire which it seems still burns against us in some sections of the country. But we intend, it makes no difference what the provocation may be—we intend, it makes no difference how terrible may be the feelings which are excited in our bosoms by the reflections that gentlemen call up—we intend to try to do our duty honestly and faithfully by this land; and I would trust that in the carrying out of that intention and purpose on our side we shall have the encouragement of the gentlemen on the other side of this Chamber. Hence we have on our part tried to evade the debate. When evasion looked like cowardice, when flight looked as if it was from some sin we were afraid to acknowledge, we paused, or consented to go in; and now we say to the gentlemen on the other side that in good temper, in good spirit, we are willing and desire to go through with this debate, and we are willing and we desire to pass our votes here for the purpose of recording our final judgment upon these propositions.

The PRESIDING OFFICER. The question is on the motion of the Senator from West Virginia, [Mr. HEREFORD.] The Senator from Georgia [Mr. HILL] moved that the pending resolutions and the amendments be postponed till the 5th day of March next, which is beyond the expiration of the present Congress, and amounts in fact to a motion to postpone indefinitely. The Senator fron West Virginia, while that motion was pending, moved to postpone the pending resolutions indefinitely. The Chair will put the question on the motion of the Senator from West Virginia first, as it embraces the other motion. The question before the Senate is, Shall the pending resolutions and all the amendments be indefinitely postponed?

Mr. OGLESBY called for the yeas and nays; and they were ordered.

The Secretary proceeded to call the roll.

Mr. EDMUNDS, (when his name was called.) On this question I am paired, as on all political questions, with the Senator from Ohio, [Mr. THURMAN.]

Mr. HEREFORD, (when his name was called.) I am paired with the Senator from Nevada, [Mr. SHARON.] If he were here, I would vote "yea."

Mr. JONES, of Florida, (when his name was called.) I am paired with the Senator from Michigan, [Mr. CHRISTIANCY.]

Mr. MCPHERSON, (when his name was called.) I am paired with the Senator from Arkansas, [Mr. DORSEY.] I do not know how he would vote on this question.

Mr. MERRIMON, (when his name was called.) On this question I am paired with the Senator from Kansas, [Mr. INGALLS.] I should vote "yea" and he would vote "nay," if he were present.

The call of the roll was concluded.

Mr. DENNIS. On this question I am paired with the Senator from South Carolina, [Mr. PATTERSON.] I should vote "yea" and he would vote "nay," if he were present.

Mr. KIRKWOOD. On all questions arising upon these resolutions, my colleague [Mr. ALLISON] is paired with the Senator from Kentucky, [Mr. MCCREERY.]

Mr. TELLER. My colleague [Mr. CHAFFEE] is paired with the Senator from Louisiana [Mr. EUSTIS] on all questions of a political nature.

Mr. EATON. I want it to appear upon the record that my colleague [Mr. BARNUM] is paired with the Senator from Massachusetts, [Mr. DAWES.]

Mr. WITHERS. I wish to announce that my colleague [Mr. JOHNSTON] is paired with the Senator from California, [Mr. SARGENT.]

Mr. FERRY. I do not know but that the Senator from Florida has stated it, but I should like to have it known that my colleague [Mr. CHRISTIANCY] is paired with the Senator from Florida, [Mr. JONES.]

Mr. HOAR. My colleague, Mr. DAWES, is paired with the Senator from Connecticut, [Mr. BARNUM.]

Mr. WADLEIGH. On this question I am paired with the Senator from Maryland, [Mr. WHYTE.] If he were present, I should vote "nay" on this motion.

The result was announced—yeas 15, nays 31; as follows:

YEAS—15.

Beck,	Eaton,	Lamar,	Saulsbury,
Butler,	Gordon,	McDonald,	Voorhees,
Coke,	Harris,	Maxey,	Withers.
Davis of West Va.,	Hill,	Ransom,	

NAYS—31.

Anthony,	Ferry,	Kirkwood,	Randolph,
Bailey,	Garland,	McMillan,	Rollins,
Bayard,	Hamlin,	Matthews,	Saunders,
Burnside,	Hoar,	Mitchell,	Spencer,
Cameron of Pa.,	Howe,	Morgan,	Teller,
Cameron of Wis.,	Jones of Nevada,	Morrill,	Wallace,
Conkling,	Kellogg,	Oglesby,	Windom.
Conover,	Kernan,	Paddock,	

ABSENT—30.

Allison,	Davis of Illinois,	Ingalls,	Sargent,
Barnum,	Dawes,	Johnston,	Sharon,
Blaine,	Dennis,	Jones of Florida,	Shields,
Booth,	Dorsey,	McCreery,	Thurman,
Bruce,	Edmunds,	McPherson,	Wadleigh,
Chaffee,	Eustis,	Merrimon,	Whyte.
Christiancy,	Grover,	Patterson,	
Cockrell,	Hereford,	Plumb,	

So the motion was not agreed to.

The PRESIDING OFFICER. The question now is on the amendment offered by the Senator from Arkansas [Mr. GARLAND] to the substitute offered by the Senator from Alabama, [Mr. MORGAN.]

Mr. EDMUNDS. I thought the Senator from Georgia [Mr. HILL] moved to postpone until the 5th of March.

The PRESIDING OFFICER. The Chair decided that that motion was embraced in the motion just decided as it was to postpone to a day beyond the expiration of this Congress.

Mr. MORGAN. The resolutions offered by me as a substitute were prepared with a view of presenting to the consideration of the Senate what was esteemed to be the united opinion of the democrats of this body that the thirteenth, fourteenth, and fifteenth amendments to the Constitution were valid. As I observed in some remarks I had the honor to submit recently, I was not aware, nor am I yet aware, that any Senator who took the oath of office here had ever excluded from the operation of that oath either of these amendments. I have always supposed that every Senator here felt that these amendments to the Constitution were valid and operative as any other part of the Constitution of the United States. I have not as yet had any occasion to change my view upon this subject, because no Senator on either side of the Chamber has announced his opinion to be that these amendments from any cause whatever were invalid or inoperative. It might be enough for the American people, after the great struggle they have passed through to get the States all back into the Union, to have the authority of the United States recognized in every part of this country, in the Territories, the District of Columbia, and the States, and they might be very much gratified also that this result had been attained without a special inquiry into the particular reasons which might have influenced the mind of every man who accepted office under the United States Government in giving to that Government an oath of allegiance which included the entire Constitution as it was understood in both the branches of Congress and by the President of the United States, and understood by every State in the Union, understood by every judge in the United States, and understood at large as I believe by every citizen of the United States.

This country has done well for itself and has done well also for that constitutional form of republican government and institutions which have been established upon this continent, and the organic features of which have been incorporated into the Constitution of the United States, and also into the thirty-eight constitutions of the

different States. This people have done well, after a struggle that cost them more than a million of lives and more than four or five thousand millions of property, even within ten or twelve years after the close of that struggle, to have re-established the organic law of this land in such a way and with such thorough acceptability that no man, whether in office or out of office, whether under a State or under the Federal Government, feels himself at liberty to deny the whole power and influence of the entire Constitution as it now exists. I am not thoroughly read in history, and yet I think I am sufficiently read to say that there is no race of people in the world who, after a struggle so terrible as that which the people of the United States have had occasion to pass through, have had so much of the power of reclamation and so much ability for the restoration of their institutions as to be able within so short a period of time to re-establish all their constitutional relations with each other without the slightest objection on the part of any, whether in private life or in public station. I think that it is a subject of congratulation to the entire country, and it is a subject of congratulation to our race also, that we have had in our composition so much of wisdom, so much of honest patriotism, so much of love for our land, as to be enabled in so short a time so perfectly to reconstruct, rehabilitate, and reinstate the ancient *régime* in this country through which we have already achieved a very proud if not a very eminent position among the nations of mankind.

When, therefore, a resolution is offered for the purpose of bringing into question the real point of the fidelity of the people, whether in office or out of office, to the Constitution that we have at last agreed to abide by and to live under, it seems to me as if that resolution were intended as a stab at the whole country. I confess that it would never have occurred to me to have offered a resolution to test the friendship of any State of the American Union to any part of the Constitution of the United States, and when such a resolution is brought forward here I can but feel that the hand that thrusts the dagger must be conscious that it ought to fall from some blow, and finding no other place where it would be well received, I suppose the hand thus drawn and that inflicts this blow makes the acknowledgment that it has taken part as a self-executioner.

There are reasons upon which various men in the Southern States of the Union have come to the conclusion that this Constitution as it stands is valid, and those reasons differ almost with the differences that exist between the different individuals who have been called upon either officially or otherwise to express these opinions. An immense field has been opened up to the reflection of men who are supposed to be profound in their investigations of questions pertaining to government, in which field a very vast number of questions have arisen, each State and each section of the country being differently affected by these questions, and we are not to be astonished at at least the possibility that there has been a great variety of opinions. It would be indeed very strange that three amendments to the Constitution of the United States should have a better footing than any of the other of the twelve that had been adopted before, and that there should have been no differences of opinion in reference to the reasons which ought to actuate Legislatures or men in the adoption of these three amendments.

When we come to consider the first twelve amendments to the Constitution of the United States and the debates had thereupon in the different Legislatures by which they were ratified, we find that there was a vast difference of opinion in all the Legislatures as to the propriety of the adoption of those twelve constitutional amendments. American judgment and American thought set free by the very characteristics of our institutions naturally employs itself in an inquisitorial examination of all the different amendments which have hitherto been adopted to the Constitution of the United States, and in every Legislature which undertook to act upon the ratification of the twelve first amendments of the Constitution there was a vast amount of debate and a vast difference of opinion, but arriving as they did at the conclusion that these different amendments were adopted because of their necessity for the better promotion of the public welfare, nobody, I believe, has hitherto arisen in the Senate or elsewhere to question whether the reasons upon which those ratifications took place were satisfactory to them or not. We have accepted all the amendments of the Constitution up to number 12 without making any inquiry in reference to the reasons which induced their ratification, and indeed in reference to some of that first class of amendments very serious questions arose here and elsewhere as to whether the ratification of them had taken place in exact conformity with the Constitution of the United States, whether or not some of the States had not ratified and then reversed their ratification, and whether after such action taken by the States the situation did not remain in this attitude that the constitutional amendments had not been ratified because every State had not at the same time or under exactly appropriate action given its assent to the ratification. Then, it is not to be wondered, of course, when we come to the three amendments of the Constitution which have been adopted during a period of intense political excitement following the great war from which we have but so recently emerged, that there should be vast differences of opinion in reference, first to the question of their ratification, second the regularity of the ratification, and third in regard to the propriety of the ratification.

Now, Mr. President, there is one thing about which we are all agreed; and when we agree in that, what will our constituents the people of the United States or the States we more immediately represent here think of us, if after agreeing as to the main fact that the thirteenth, fourteenth, and fifteenth amendments have been ratified and are a part of the Constitution, and after having given the sanction of our oaths here also that this is so, what will they say about us when we determine to vote for an expression that they are valid because we may have or may even now disagree in reference to the line of argumentation upon which we have arrived at that conclusion?

If I thought that the validity of the thirteenth, fourteenth, and fifteenth amendments to the Constitution depended in my country upon the harmonizing of the views in reference to the propriety of the motives which have led the different bodies in the South to their ratification, I should despair ever to believe that these were parts of our Constitution. But when I come to look over the field of actual fact; when I come to see what the State Legislatures have done, what governors have done, what the constitutional conventions have done, what all the judges have done, what the people of the South throughout its entire breadth have done, no room is left for debate at all, no room is left for controversy upon the fact that these constitutional amendments are regarded just as much a part of the organic law of the United States as the first section of the first article of that instrument. I can therefore see no objection to any man refusing to give his vote in favor of the fact that these constitutional amendments do comprise a part of that instrument, though he may disagree in the reasons upon which he has arrived at these conclusions when no reason is stated in the resolution itself, and I hope that my friend from Arkansas will get his own consent not to attempt to mpress the fact of the validity of these amendments with the reasons which may exist in his own mind which have led him to the same conclusion that I have arrived at.

The honorable Senator from Arkansas was for one or I believe two terms governor of that State. He came into power in Arkansas at a time when there was more disturbance than at any other period of the history of that State or the South; he came into the charge of the government of Arkansas at a time when it was eminently necessary that some brave and true heart should speak out in favor not merely of the acceptance of the situation but its actual enforcement in practice within the State; and he being the governor of that State, I believe that he did more than any other southern governor for the purpose of putting into actual and practical operation the whole spirit and purport of the fourteenth and fifteenth amendments. To him is due the credit—and I use the word "credit" with a feeling of gratitude to him—of having taken up the colored population in his own State, having placed them in judicial station, in official chairs as bailiffs, and in other official relations of importance in that State, thereby signalizing a disposition on his part to go just as far as it was possible to go in favor of placing those people in recognized authority in that land. The policy on that subject has not been reversed to this day except to the extent that it has been developed that the negroes have not been capable of performing those public duties which the governor of Arkansas invited them to perform and commissioned them to perform. Neither the honorable Senator from Arkansas nor any other man in the South is responsible for the fact that when an opportunity has been afforded to those people to discharge judicial, legislative, and other functions in that country they were found totally incapable of doing so after fair experiment; and it is not within the reach of the power of Congress by any measure they may adopt here to change that condition of facts, for it is a condition, and it makes no difference who may be responsible for it, that cannot be altered or improved by law.

Now, the Senator from Arkansas who objects to these resolutions because they do not state the reasons which impress his mind with the fact of the amendments being valid, because he is not satisfied with the mere declaration of the fact without stating some reason for it, yet having in every respect admitted as he did in the debate, having always conformed his action as governor of Arkansas to that fact, I trust that the Senator will be willing to allow us to express our opinion on the validity of these amendments without stating the process of reasoning by which we arrive at it.

I suppose really the Senator from Arkansas desired to do no more than to place upon record that which he and every Senator here has the right and duty to place on the record, the particular grounds on which he arrives at the conclusion that these constitutional amendments are valid. I commence with the proposition that they are valid. The next chain in the argument of myself is that they are valid because they have been promulgated as being valid; and while that promulgation would not give to them the special quality of constitutional amendments so as to prevent the Supreme Court of the United States from afterward holding that that promulgation was incorrect and that they had not been adopted as part of the Constitution, yet after the promulgation and in the absence of a joint resolution of the two Houses of Congress revoking or annulling or setting aside that promulgation, there is not only a *prima facie* but a presumptive intendment in favor of the validity of these amendments to the Constitution. So if I believed there had been no ratification——

Mr. HOAR. I desire to ask the Senator from Alabama a question with a view of seeing whether I understood accurately the very interesting statement of his opinion which he has just made. I desire to ask him if I understand him to affirm, first, that he thinks the three

amendments in question are a part of the Constitution because they have been promulgated as such, and that a joint resolution declaring them not parts of the Constitution, if it should pass hereafter, would have the effect to overthrow and destroy the constitutional effect of that promulgation?

Mr. MORGAN. Do I get the meaning of the Senator whether I think a joint resolution hereafter would do it?

Mr. HOAR. Yes, sir.

Mr. MORGAN. I do not arrive at that proposition. I said that these amendments having been promulgated, the Congress of the United States possibly having the right of revocation of that promulgation by joint resolution, and not having done so, they are considered by each branch of Congress valid, because in the absence of such joint resolution, when the Senators are sworn here they necessarily understand that they are sworn with reference to the whole instrument.

Mr. HOAR. But if the Senator will pardon me, his statement seemed to me to imply that he rested the present existing authority of these three amendments upon the effect of their promulgation, first; and, second, that he was of opinion—the mode in which he stated it was—that that effect continued until that promulgation was retracted by a joint resolution or overthrown; that he was of opinion that it would be competent for Congress by joint resolution to overthrow and annul the effect of that promulgation. I understood that to be the opinion of the Senator. If I did not correctly understand him to have said so, is he willing to say that he thinks and those who agree with him think that a joint resolution of Congress would destroy the effect of these three amendments?

Mr. MORGAN. I have never been willing to say that. Certainly I am not willing to say it under existing circumstances; neither did my argument lead in that direction. The Senator anticipated me——

Mr. HOAR. I beg the Senator's pardon. I am afraid I have not made myself understood. My question was whether he is willing to inform the Senate as to his opinion upon that question whether these amendments may be annulled by a simple joint resolution?

Mr. MORGAN. I am not. I will put this statement to the Senator from Massachusetts, though I do not consider it at all material, because as I was about to remark my judgment about the ratification of these amendments is predicated upon matter which I have not yet alluded to. I was proceeding, however, in the course of the argument for the purpose of showing the effect of a promulgation in my opinion——

Mr. HOAR. The Senator will pardon me once more, and then I will endeavor not to interrupt him again, because I think he will agree that this is a very important question, and will be regarded as such by the whole country. The Senator informed us the other day, in relation to one portion of his statement of his constitutional position, that he was authorized to speak for the democratic party in that particular.

Mr. MORGAN. I beg pardon. I never said that.

Mr. HOAR. Then I misunderstood the Senator. I understood him to say that.

Mr. MORGAN. I said I thought I might state a certain thing for the democratic party, but I never said I was authorized to speak for it.

Mr. HOAR. Well, that he thought he might speak for the democratic party; and public rumor has attributed to the Senator an authority so to represent that party in the introduction of his resolutions offered as an amendment to the resolutions of the Senator from Vermont.

Now, it is a very important practical question, bearing upon the question now before the Senate of the necessity or expediency of having a solemn public affirmation on this great subject of the rights of citizens, for us to know whether it is the opinion of the Senator, and, so far as he understands it, the opinion of his political associates, that these three amendments may at any time be destroyed by a joint resolution of the two Houses of Congress?

Mr. MORGAN. I have no authority for supposing that that is the opinion of any man on this side of the Chamber, and surely it is not mine.

Mr. HOAR. Or that it is not?

Mr. MORGAN. I have no authority for supposing that it is not, because the subject has never been discussed in my hearing. It is a subject that has not been mooted, and I suppose it wholly originated in the mind of the Senator from Massachusetts. I do not suppose there is the slightest doubt on this side of the Chamber upon that proposition. I was referring to the subject of the promulgation as an article of law in reference to its effect. I suppose that the promulgation provided for by the act of Congress in 1818 has some effect.

Mr. EATON. Will the Senator yield to me for a moment?

Mr. MORGAN. Certainly.

Mr. EATON. I should like to say to the Senator from Massachusetts that in my judgment—I certainly have not conversed with every member of the Senate upon this side of the Chamber—there is no member of this Senate, either democratic or republican, who believes that a joint resolution of the two Houses of Congress can repeal a part of the Constitution of the United States.

Mr. HOAR. But if——

Mr. HARRIS. If the Senator from Alabama will allow me——

Mr. HOAR. Will the Senator from Tennessee allow me to put the Senator from Connecticut right? First, the proposition, as I understand it, is this: the Senator from Alabama declared that these three amendments were binding like the rest of the Constitution, because they had been promulgated by the Executive as having been duly ratified, but he said he was not willing to say whether they really had been duly ratified or not, but that that promulgation required the American people to submit to them as a part of the Constitution until the effect of that promulgation was destroyed by a joint resolution. Then I asked him whether he was willing to say that it was his opinion, and the opinion of those with whom he acted, that a joint resolution overthrowing the effect of this promulgation would make these three amendments cease to be binding as a part of the Constitution; to which he replied, if I understood him, that he was not willing to affirm that it was his opinion and that of those who agreed with him, or that it was not his opinion and that of those who agreed with him. Now the Senator from Connecticut says that nobody thinks that a part of the Constitution can be repealed by joint resolution; but the point is whether these three amendments are in such sense part of the Constitution that they cannot be stricken out from it except by the authority of Congress, two-thirds of each branch with the concurrence of the State Legislatures necessary to a new change in the Constitution.

Mr. EATON. I have given my opinion.

Mr. HOAR. The Senator from Connecticut has given no opinion on that point.

Mr. MORGAN. I desire to proceed. Mr. President——

The PRESIDING OFFICER. The Senator from Alabama declines to yield the floor.

Mr. MORGAN. I will not yield the floor to any man now, in justice to myself.

Mr. KERNAN. I wanted to say a word.

Mr. MORGAN. I will give the Senator from New York an opportunity presently. The Senate have probably observed how very unjust it is for a man to be interrupted in the midst of his remarks and before he completes the statement he is making for a Senator to rise and state what he infers from a remark of his and thereupon to arraign Senators in public opinion. It is at least fair to every man on this floor and elsewhere that he should have a reasonable opportunity of stating his own propositions before others rise for the purpose of questioning them or trying to put him in a false attitude. These interruptions have made it necessary for me to go back.

I state again, therefore, the proposition which I before stated, that I believe the amendments of the Constitution known as the thirteenth, fourteenth, and fifteenth amendments, to be valid for the following reasons: first, that they have been promulgated. That is not all; but I am speaking of the effect of the promulgation. I do not believe that promulgation gives to an amendment to a constitution validity in itself; but I do believe that that promulgation stands and enforces these amendments of the Constitution which are thus put forward under the operation of the laws of the land until those amendments of the Constitution are afterward denied to be valid by the Supreme Court of the United States if a question should ever come up there which should involve their validity; and the Senate of the United States and every Senator swearing to support the Constitution under promulgated amendments swears to the amendments as they are promulgated, includes them in his oath, and is bound to observe that oath so long as those amendments to the Constitution remain unreversed by some authority that stands above the Senate. I was proceeding to give my views upon the effect of the promulgation, and that was all.

I go further than this. The Legislatures of the different States of the South and of the United States, by majorities which have been recognized and accepted by the executive department, by the legislative department, and by the judicial department, have ratified the amendments. The three great departments of this Government have pronounced in a proper way the ratification of these amendments. When you go back to the States and inquire whether or not I was disfranchised when these amendments were adopted, you find that such was the fact. That does not affect the validity of the Legislature of my State, though fifty thousand or seventy thousand men situated as I was were disfranchised. Why does it not affect the validity of the Legislature of the State? Because the political departments of the Government have recognized that Legislature as being valid, and that political recognition by the proper departments here makes them valid; and the argument therefore cannot lawfully or constitutionally go behind that recognition. This recognition establishes their validity beyond dispute and argumentation so far as we are concerned, except that we may believe that they were not valid, but the legal fact is the other way. That is the proposition. Then I find that the promulgation included the name of every State that was said to have ratified the amendments, and I find by reference to the legislative action of those different States that the promulgation is sustained in that particular, that these different Legislatures were recognized as legal and valid representative bodies in the respective States representing so much of the sovereignty of each State as belongs to the Legislature and holding Federal relations recognized here. Finding all these things to be so, the argument is concluded in my mind, concluded I think in every mind, certainly concluded here and in the Supreme Court of the United States, that these amendments are valid.

That is my poor and feeble way of arriving at my own conclusions, and in doing so I discard entirely all inquiry into the incidental matters of whether we were disfranchised or whether we were not disfranchised. Hence I have never had the slightest reluctance on my part in taking an oath of obedience to these amendments to the Constitution, with no mental reservation, with no objection; and on my part I state that I can safely affirm an entire disposition to carry them out according to the full extent and meaning of their purpose.

My honorable friend from Arkansas differs with me in this process of reasoning, but comes to the same conclusion. His reasons may be better than mine, more satisfactory to himself and to the Senate and to our colleagues on this side of the Chamber; but what difference does that make between us when we all arrive at the same conclusion and we all believe that these amendments are irrevocable except in the method pointed out in the Constitution for the amendment thereof? There stands the case.

I did not deem that it was necessary to follow the lead of the Senator from Vermont, whose purpose evidently it was, and almost I think his only purpose, to bring into this debate these very inquiries which he as a great constitutional lawyer must admit have been shut off by the action of every department of this Government. Would that Senator rise in the Supreme Court of the United States, if he desired to attack one of these amendments, go behind the action of the State Legislatures and inquire whether those Legislatures were proper tribunals and elected by the really qualified electors of the State, some of whom or a majority of whom were disfranchised? He never would attempt it. His sensibilities as a lawyer would be absolutely shocked at the thought that any man could arise after this solemn and universal acceptance of these amendments by all the departments of this Government and by all the people of this Government, and make an argument of that kind against their validity. Neither can I do so. When the Senator seeks to extract such argument and debate from our side, he must surely have supposed that we had no substantial and valid reasons for believing in the validity of these amendments or that they were a portion of the Constitution. He must have supposed we were giving them our adhesion out of a mere feeling, I will say of cowardice on our part, being unwilling to come forward and assert our objections to them. The Senator has been disappointed in that respect. Whatever he may have expected on that subject, I think the Senator has achieved no great conquest unless he may esteem it a conquest at last to have convinced himself as well as the balance of the world that that which everybody knew and everybody believed was actually true!

Now, I have gone as far, Mr. President, as I desire to go in reference to the argument on the amendment of the Senator from Arkansas, and I really would like to come to a direct vote on the proposition so that we can have the concurrence of the Senator from Vermont with the concurrence of all the Senators on this side of the House, so that the question may be put by a unanimous vote everlastingly at rest that the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States are valid. The Senator from Vermont thinks he has discovered a reason for their validity, and that is that they have been ratified by the different States. That is a very good reason, no doubt satisfactory to himself, and yet it might not satisfy everybody. But will he reject the Constitution as being invalid because he cannot get somebody to concur in the reason for it? Suppose I say "Yes, it is valid, but for a different reason," will the Senator shake hands with me and depart from me because we cannot agree as to the reasons which lead us to a conclusion as to the validity of the amendments when we agree in the fact of their being valid? I trust he will not consider that my patriotism is at stake and that my right of friendly association with him in the further labors of the Senate shall be in any wise put in jeopardy because we do not happen to agree about the process of reasoning by which the validity of these amendments is sustained when we agree in the main fact. Let us give peace and rest to the country; let us cease disturbance; let us come together in a spirit of American honor and truth and declare the amendments valid, it makes no difference by what reasoning we may arrive at that conclusion.

Mr. GARLAND. Mr. President, what is the question now before the Senate?

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Arkansas to the substitute offered by the Senator from Alabama.

Mr. GARLAND. I would not trouble the Senate again but for the remarks of the Senator from Alabama in reference to the amendment I have offered, and I shall trouble it for but a very few moments.

The amendment was offered in good faith and offered as one of the convictions of my soul after a very long and very painful examination of this question in more years than one. I may be in error as to that conclusion. If I am, it is my error, and of course I take the responsibility of that, senatorial or otherwise. I believe even in the United States Senate a man ought to express his honest convictions when he expresses any. Therefore I am unwilling to have this amendment go out of the Senate without being voted upon. It is true that I have served my purpose as an individual and my responsibility to my constituents by putting the amendment on the record and making the few remarks I did to-day upon it. The amendment is upon the record with my remarks. I shall not repeat them or attempt to repeat them now, but I will invite the Senate to a vote upon the amendment, and if it gets no other vote than my own it shall receive that. I have no terror of being in the minority, for I have been the greater part of my life in the minority.

As I stated in my remarks before, I acknowledge the validity of these constitutional amendments. The process of ratiocination, if I may so express myself, by which the Senator from Alabama and myself reach that conclusion may be different, but I have upheld these amendments through fire and storm and bloodshed, in my official capacity heretofore, and I have done that in my relation to the colored people that the Senator from Alabama has been so kind as to speak about. I shall not now detail it. I am upon a committee by the appointment of the Senate where at some future time it may become necessary, or if not necessary proper for me to recite that; but I shall certainly not do it unless it is pertinent to the question before the Senate.

Mr. MORGAN. I hope I have not misrepresented the Senator.

Mr. GARLAND. Not at all; but I do not know that that is pertinent to this question. I stated in my remarks before that I had enforced these amendments, for the purpose of showing that I believed they were valid; but that they are valid through any legal process of ratification there is not power enough in this world or the next, so far as I know, to make me say in this or any other tribunal.

Now in answer to the question of the Senator from Massachusetts, which was not addressed to me but to the Senator from Alabama, I say to him for one, with all the detestation I have for the origination of these amendments, for their conception if you please and their birth, I will never agree that any joint resolution of these two Houses of Congress shall repeal them. If they ever go from this Constitution with my consent they must go under the sanction of the proceedings prescribed by article 5 of the Constitution, but without which they came into the Constitution. That is the answer I make. I regard them now as children of that Constitution and protected by all its provisions just as though they had been incorporated under the sacred provisions of article 5 in the Constitution, which in my judgment they were very far from being.

Mr. President, the Senator from Vermont a little while ago intimated that there was a disposition over here to delay. I do not want to delay anything. I have never voted to delay a proposition that any gentleman has called up in the Senate since I have been here. Let us confront the proposition, and if we do not agree to it vote against it; if we agree to it vote for it, and he cannot get a vote on this proposition at any earlier date than I should like to have it. I am ready to vote now and settle the question. I want no delay; I want no postponement. My proposition is on the record, and the few remarks I made in support of it are there. By them I will stand, or if I cannot stand I will fall.

Mr. HARRIS obtained the floor.

Mr. HOAR. Will the Senator from Tennessee permit me to ask a question of the Senator from Arkansas?

Mr. HARRIS. In one moment. It will take me but one moment to say all that I desire.

Mr. HOAR. I wish to propound a question to the Senator from Arkansas.

Mr. HARRIS. I shall be very happy to yield the floor to the Senator from Massachusetts in one moment, but I rose for the purpose of saying that when I asked the permission of the Senator from Alabama a few moments since to interrupt him, it was simply for the purpose of answering the question of the Senator from Massachusetts, as one of the members of the democratic party. I answer the question of the Senator from Massachusetts with an emphatic no. I do not believe that amendments that we recognize as parts of the Constitution and valid as such can be annulled or repealed by any joint resolution of the two Houses of Congress. I interrupted, or sought to interrupt, the Senator from Alabama because I was not exactly satisfied with the emphasis, or rather the want of emphasis, of the answer of the Senator from Alabama. I desired simply to answer it with emphasis and distinctness, as I have done. That is all that I desire to say.

Mr. HOAR. I rose for the purpose of asking, before the Senator from Arkansas sat down, a question which I think might be very well put both to him and to the Senator from Tennessee, and that is, if they think the Constitution was amended by putting in these three amendments in an illegal manner which the Constitution does not provide for, why they think the three amendments cannot be got out in some other manner than that provided by the Constitution? What constitutional principle is it under which the Constitution can be amended in a mode in which it does not itself provide, to put in these three amendments, when they cannot be got out except by the process provided there? In other words, as I understand it, the Senator from Arkansas says that these amendments have never been adopted in a legal and constitutional manner, and that is his opinion, and no power on earth or under the earth will make him say the contrary, but they have got into the Constitution because they have been acquiesced in by the States. Now suppose the States should withdraw that acquiescence, will not that take them out again?

Mr. GARLAND. Not at all.

Mr. HOAR. Why not?

Mr. GARLAND. Because the acquiescence and the whole act has been confirmed in a thousand ways over. The Senator from Massachusetts did not hear what I said to-day when I offered the amend-

ment. There is no clearer proposition in my mind—I do not want to state it again; I stated a principle which he as a lawyer will recognize, it is somewhere given in the books—that an after-ratification is just as good as an original authority, and no power, no authority, no exercise or attempted exercise or assumed exercise of authority can change that. Rights are fixed under it; and I say to him that his fears, if he has any fears on that subject, are groundless. I never will consent to these amendments going out except under the sacred provisions of article 5 of the Constitution, but by which they did not come in, in my judgment.

Mr. HOAR. I am at a loss to understand the answer of the Senator from Arkansas; doubtless it is because of my own infirmity of understanding. I understand the proposition of the Senator from Arkansas to be that, although the proceedings by which these amendments were conceived, carried through, and got into the Constitution were detestable, or to state him exactly, very detestable, he thinks they would still, as they have been acquiesced in by the States in an unconstitutional and an illegal manner—he thinks they are in there. Now, why is it that he thinks that a detestable thing may be put into the Constitution in an illegal manner, but that the same process will not get it out, although of course instead of being detestable it would be highly desirable and proper to have them out.

Mr. GARLAND. I repeat, Mr. President, that eleven States to which these amendments were submitted were in bondage and handcuffed at the time, and the Secretary of State reported that some of them had and some of them had not ratified them; but since they have had these handcuffs removed from them, since they have been restored to liberty, they have by express legislative enactment recognized the amendments, have legislated with a view to them, and their governments have enforced them in many ways; and I am among the number of those governors, and we have nothing to retract, nothing to recall or recant on that subject. If that is not an answer to the gentleman's proposition, I am not able to give him one. I repeat to him that if I am alive and have any authority in this country, direct or otherwise, these three amendments shall never go out of the Constitution except under the sacred provisions of article 5 of the Constitution, under which they did not come in.

Mr. MITCHELL. May I ask the Senator from Arkansas a question?

Mr. GARLAND. Certainly.

Mr. MITCHELL. Suppose the President of the United States should issue a proclamation to-morrow to the effect that from and after the 1st day of March next there should be a sixteenth amendment to the Constitution of the United States, that that amendment should provide that from and after that day, by virtue of that amendment of the Constitution, all Chinese male persons twenty-one years of age, whether naturalized or otherwise, should be entitled to vote in the United States; and suppose that for five years the three Pacific States, for instance, where these Chinese principally live should accept that as part of the Constitution of the United States, make no question about it, raise no objection to the right of Chinese persons to vote, would that acquiescence bind those States or bind other States at the expiration of those five years? Would that, in other words, make this sixteenth amendment of the Constitution a part of the Constitution? And if not, wherein is the difference between that case and the one suggested by the Senator?

Mr. GARLAND. In the first place we never have a right to suppose anything that is so violent in regard to official action, but there are two or three more answers that I intend to give.

Mr. MITCHELL. But I understand the Senator from Arkansas to say that the Congress and the States in adopting these amendments, in so far as they were adopted, committed what he regards as a great outrage against the rights of the people of certain of the States; in other words that these parts of the Constitution came in not by virtue of the fifth article, or under its provisions, but in some other way unlawfully and wrongfully and to the great destruction, as I understand him, of the rights of certain of the States and the people of the States, just as the other would be.

Mr. GARLAND. I could tell a very good story about arguments on suppositions if time allowed; but if a man were to argue on suppositions he might suppose that if the sky would fall he could catch a good many larks.

Mr. MITCHELL. That may be a satisfactory answer to the Senator. I do not think it will be a satisfactory answer to the Senate.

Mr. GARLAND. I am not going to rest on that. If the President of the United States, through the Secretary of State, in the promulgation of these amendments, as I tried to show the Senate to-day—and I think the Senator from Oregon did not hear me on that proposition, as the Senator from Massachusetts did not on the other—or if the proposed Chinese amendment was promulgated, as the Senator from Oregon states, by the President or Secretary of State, as the case might be, and eleven States of the Union had been handcuffed and manacled, as they were before, so that they had no free election, I would say that the proclamation of the President was not valid, no more than if a man who was surveyor-general of the State of Oregon should proclaim and publish to the world that a survey of six hundred and forty acres had been made there to correspond with the Government surveys when in fact it never had been made.

Mr. MITCHELL. If the States were handcuffed and manacled and still acquiesced, therefore the greater reason why the acquiescence should not bind.

Mr. GARLAND. That is a different question. We come now after they are free and restored to their liberty and have an election—I mean by that "free choice;" that is what "election" means, "free choice"—when they have free choice and acquiesce in the amendments and ratify them by their action through all their departments as they have done here, then they are valid under that principle of law I have stated.

Mr. EDMUNDS. What is that action to which the Senator refers?

Mr. GARLAND. No mere proclamation of the President, nor of the Secretary of State, or of anybody else, can give them a vitality they did not have before through the active process described in article 5 of the Constitution.

Mr. HOAR. Then would the Senator be of opinion that if it should turn out in the judgment of the people of any State that they had not done anything since the manacles were taken off to affirm or to ratify these constitutional amendments, or that at best they had only said what the Senator from Alabama said, that they were binding until the promulgation was repealed by joint resolution, the people of that State——

Mr. MORGAN. May I interrupt the Senator from Massachusetts? I made no such declaration, and the Senator knows it.

Mr. HOAR. I understood the Senator from Alabama to say that they were binding until such a joint resolution, and that he would not say whether or not a joint resolution would have the authority to repeal them.

Mr. MORGAN. I said no such thing and expressly contradicted it on this floor in reply to the question of the Senator.

Mr. HOAR. The Senator misunderstood my sentence or I misunderstand him now. I do not understand it.

Mr. MORGAN. I said nothing of that sort.

Mr. HOAR. My question to the Senator from Arkansas is this: Suppose the people of a State should conclude they had not ratified these amendments since the manacles were taken off, or at most had only agreed to be bound by them as long as the proclamation of promulgation had an effect, then, in his judgment, would they be at liberty to treat them as not a part of the Constitution?

Mr. GARLAND. I can answer that without any difficulty at all. After the Polandish separation of the State of Virginia, there was a litigation brought up from those two States to the Supreme Court in reference to the counties of Berkeley and Jefferson. It was decided by the Supreme Court in 11 Wallace I think, though my memory may be astray as to the volume, but it was certainly decided by the Supreme Court, that the separation of those two counties was a political fact recognized by all the departments of the Government, and as such it must be final. They never touched the law of the case really. Now, if the political departments were to attempt to withdraw their assent from that separation of those counties, they could not do it. It is fixed and final. So in this matter there is a parallel, and I could give plenty more. There is one right in point, and I say to the Senator from Massachusetts they cannot withdraw it because the legislative, executive, and judicial departments of these several States that were then manacled have recognized these amendments as operative, and they became operative as much so as article 1 and from that down to article 12 of the original amendments.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Arkansas [Mr. GARLAND] to the substitute offered by the Senator from Alabama, [Mr. MORGAN.]

Mr. EDMUNDS. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DAVIS, of West Virginia. Now let us know just what the question is.

The PRESIDING OFFICER. The amendment will be reported.

The SECRETARY. It is proposed to amend the substitute as follows: After the word "that," in the first line, insert the word "although," and after the words "United States," in the second line, insert "were not adopted in a legal manner, yet having been accepted, recognized, and acquiesced in by the States, they;" so as to read:

Resolved as the judgment of the Senate, That although the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States were not adopted in a legal manner, yet having been accepted, recognized, and acquiesced in by the States, they are as valid and binding as any other part of the Constitution, &c.

Mr. EATON. I ask my friend from Arkansas if he will so amend his amendment that it will read in this way: "that waiving the question of the legal adoption;" not asserting the fact that they were not legally adopted, but waiving the question of their legal adoption.

Mr. GARLAND. I have very great respect for my friend from Connecticut, and more than respect, but I believe in the issue this question is assuming I shall decline to modify the amendment.

Mr. BAILEY. Mr. President, I believe we are all agreed that the thirteenth, fourteenth, and fifteenth amendments are to-day a part of the Constitution of the United States. Senators reach that conclusion by different methods and different processes of thought. It is sometimes impossible that we can understand those secret methods and chains of thought by which we reach conclusions. I have reached the conclusion that these are to-day parts and parcels of the Constitution of the United States, binding and obligatory upon the people and upon the States. They are to be supported, and they are to be sustained. Whether I reach that conclusion by the method followed by the Senator from Vermont, or the method followed by the Senator from Arkansas, or the Senator from Alabama, is a matter of no mo-

ment. I believe that these amendments are a part of the Constitution, and I shall vote accordingly. I shall vote against the proposition of the Senator from Arkansas and for the resolutions introduced by the Senator from Alabama, which assert that they are valid and are to-day binding; and it seems to me that that is all that any gentleman, any Senator, any citizen of the United States can be expected to affirm, that they are binding upon all the people, upon the entire country, and they are to be maintained, and they are to be supported; and whether I reach that conclusion by one method of thought or another, by one logical process or another, is a matter of no concern. I shall vote against the amendment offered by the Senator from Arkansas, but will sustain the propositions affirmed by the Senator from Alabama.

Mr. MAXEY. Mr. President, as I have voted in favor of the proposition of the Senator from West Virginia to postpone indefinitely the resolutions under consideration, I desire to give, in a very few words, my reason for that course.

With all deference to the Senator from Vermont, my opinion is, and has been from the beginning of this discussion, that these resolutions were mere *brutum fulmen*. They in effect declare that a part of the Constitution is a part of the Constitution, and being a part of the Constitution, that we shall enact appropriate legislation to carry into effect those provisions of the Constitution. I do not understand any good and sufficient reason why the thirteenth, fourteenth, and fifteenth amendments should have been selected out of the entire Constitution, from the preamble to the last section of the fifteenth amendment, in order to arrive at an assertion that that portion of the Constitution was valid. My judgment about it is—and when I took the oath as a Senator I took it with the full belief, and have attempted to carry it out—that every portion of the Constitution, from the preamble to the last section of the fifteenth amendment, was a part and parcel of the Constitution; and I believe that when an amendment was adopted it became a part of the original Constitution, precisely as if it had been adopted by the convention which framed the Constitution of 1787.

Now, I believe that the thirteenth, fourteenth, and fifteenth amendments are valid and binding as parts of the Constitution, and, therefore, that we should pass apt and appropriate legislation under them, precisely as I believe we should upon the first article or part of the first article, second, third, and so on from the beginning to the end. In other words, that it is the duty of the Congress of the United States to enact apt and appropriate legislation to carry into execution every part of the Constitution needing legislation. That is my view of it; and, therefore, it would seem to me that the selection out of these three amendments, the thirteenth, fourteenth, and fifteenth amendments, would by implication carry the idea that somebody at least thought that they were not parts of the Constitution, and by saying that it was our duty to enact appropriate legislation to carry them out, would be in effect declaring that it was not our duty to enact appropriate legislation to carry out the rest of the Constitution.

Again, the second resolution is, in effect, a direction to the Judiciary Committee to prepare the necessary bills for the purpose of doing this. I assume that the Senate has already conferred upon the Judiciary Committee all the power that is necessary for that committee to bring in a bill upon those amendments or upon any other portion of the Constitution that they may deem apt and appropriate.

Again, Mr. President, I have not yet been able to see why at this particular time, when the party of which the Senator from Vermont is so distinguished a member has had the entire control of this body from the adoption of the thirteenth amendment all the way through, and he has been for a large portion of that time the chairman of the Committee on the Judiciary, there is any good and valid legal or legislative reason why at this late hour the Senate of the United States should be called upon to direct that committee to do what it has had the right to do all the time heretofore, and which it has not heretofore done. But if I were to speak from a mere party standpoint it would seem to me that it is in effect saying that the scepter is now about to depart from the Israel which has controlled it for the last twelve years, and they have no faith that those who will follow them in the future will do their duty. If they do nothing more than has been done by this committee they will certainly have done their duty as well as this committee.

But, sir, the point which I desire to make is that a resolution of this Senate, a resolution of the House, a joint resolution of both the Senate and the House, voted for by every member of both the republican and democratic parties, would not make the Constitution one whit more binding than it is now. Constitutions are not made good and valid by a resolution of this Senate or of both the Houses together. The Constitution is valid because it is enacted in the mode and manner prescribed by our fathers in the first place, and has been amended according to the very terms of the Constitution in the mode and manner prescribed by the fathers. So believing I have said that I regard any resolution of this body declaring the Constitution to be the Constitution—and that is what it is—as a mere *brutum fulmen* without force, and therefore I have been of opinion that it was the better policy to postpone the further consideration of it and let us go to practical business.

But it was said by the Senator from Vermont that the eyes of the whole country were turned upon the Senate in regard to these resolutions. Mr. President, the eyes of this whole country are turned upon how to get meat and bread for the wife and the children, how to get clothing for them, how to pay for house-rent, how to pay debts, and this country would rather see Congress engaged in practical legislation to relieve the people's great necessities than in mere abstractions, beginning nowhere and ending nowhere.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Arkansas to the substitute offered by the Senator from Alabama.

Mr. McDONALD. I wish to offer an amendment to the amendment.

The PRESIDING OFFICER. That would not be in order.

Mr. EDMUNDS. It would be in the third degree.

Mr. McDONALD. I should like, then, to suggest to the mover of the amendment——

Mr. EATON. He has a right to accept an amendment.

Mr. EDMUNDS. Not after the yeas and nays have been ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. McDONALD. I would suggest "not adopted in the manner prescribed by the Constitution" in place of the words the Senator from Arkansas proposes.

Mr. GARLAND. The Senator from Indiana suggests an amendment to the amendment I have offered. If he will state it now again, so that I can hear it, I shall be obliged to him.

Mr. McDONALD. "That the thirteenth, fourteenth, and fifteenth amendments, although not adopted in the manner prescribed by the Constitution," &c.

Mr. GARLAND. Instead of "not being adopted in a legal manner."

Mr. McDONALD. Yes, sir.

Mr. GARLAND. It is a mere difference of phraseology, and I explained to-day my reason for not writing the original amendment in that way; but I will adopt the amendment of the Senator from Indiana if I am at liberty to do so.

The PRESIDING OFFICER. Is there unanimous consent?

Mr. CAMERON, of Wisconsin. I object.

The PRESIDING OFFICER. Objection is made and the modification is not in order, the yeas and nays having been ordered.

Mr. McDONALD. Does the Chair rule that the mover of the amendment cannot accept a modification of it?

The PRESIDING OFFICER. The Chair will read the rule; he has nothing to do but enforce the rule:

> Any motion or resolution may be withdrawn or modified by the mover at any time before a decision, amendment, or ordering of the yeas and nays, except a motion to reconsider, which shall not be withdrawn without leave of the Senate.

Mr. McDONALD. Then I would suggest to the Senator from Arkansas to ask the unanimous consent of the Senate to so amend his amendment.

The PRESIDING OFFICER. The Chair has asked for unanimous consent, and objection has been made.

Mr. McDONALD. From what quarter?

Mr. EDMUNDS. From a Senator over here.

Mr. McDONALD. I did not hear any objection.

The PRESIDING OFFICER. The Chair asked for unanimous consent that the amendment might be made, and objection was made.

Mr. MORGAN. I rise to a parliamentary inquiry. I desire to know whether the record of the Senate shows who made that objection?

Mr. McDONALD. Who was the objector?

Mr. CAMERON, of Wisconsin. Mr. President, I made the objection.

The PRESIDING OFFICER. Objection was made. I am not keeping the record, and therefore am not able to answer the particular question, but I knew that objection was made.

Mr. HILL. I simply desire to say for myself that I do not understand any way of amending the Constitution except in the manner prescribed by the Constitution, and I say with all due deference to my friends that when they say an amendment has not been legally adopted they say it has not been adopted at all. I believe they have been adopted. I believe they were adopted in the manner prescribed by the Constitution.

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

Mr. HILL. Certainly.

Mr. McMILLAN. Does the Senator discover a difference between the expressions?

Mr. HILL. That is a question for the Senator from Indiana.

Mr. McDONALD. I certainly do dicover a difference in the manner in which the adoption of these amendments was made by my own State or is said to have been made. It is a well-known fact that the fifteenth amendment was not ratified in Indiana by a legal legislative body, there not being a quorum of the Legislature at the time it was acted upon.

Mr. HILL. Mr. President, if I were to go back——

Mr. MORGAN. I desire to inquire of the Senator from Indiana if his State never adopted it, whether he does not believe it is an amendment to the Constitution?

Mr. McDONALD. I have no difficulty upon that subject. Although my State did not ratify the fifteenth amendment by a constitutional legislative body, there being no quorum present at the time, yet it has been recognized as a part of the Constitution by every department of that State since, legislative, judicial, and executive, and I take that as making it as effective so far as being a part of the Con-

stitution is concerned now as if the original ratification had been by a legal body.

Mr. EDMUNDS. That makes it a legal ratification, then.

Mr. HILL. Mr. President, I desire to say just what I have repeated, that I do not understand any method of amending the Constitution except in the manner prescribed by the Constitution; and when I say that amendments have been legally adopted I mean that they were constitutionally adopted. I cannot see the difference.

Now, if I chose to go into the history of this thing, I could find a great many irregularities, I might find a great many illegalities as original propositions; but the constituted authorities of the country have passed upon this action; they have declared that these amendments were adopted by the number of States authorized by the Constitution; they were proposed by two-thirds of each branch of Congress and were ratified by three-fourths of the States, and that is the authoritative declaration of the Government, the President, the Secretary of State, the two Houses of Congress, and the Supreme Court of the United States. If that does not constitute a legal decision I do not know what does; and I do not propose to go behind the judgment. The authorities authorized to pronounce that judgment have pronounced it; and I do not propose to reopen it.

Mr. McDONALD. I ask the Senator if the Constitution prescribes any such mode as the one he has stated for adopting an amendment to the Constitution?

Mr. HILL. The Constitution explains itself. I understand that amendments are proposed to the Legislatures of the States by a two-third vote of each House of Congress, and that when an amendment proposed by a two-third vote of each House of Congress is ratified by three-fourths of the States it is adopted.

Mr. McDONALD. By the Legislatures of three-fourths of the States which the people themselves choose?

Mr. HILL. As I have said, I am not going into the question of the legality of those Legislatures. They were acting Legislatures; they have been recognized as Legislatures by the constituted authorities of the country; the amendments have been proclaimed legally adopted; and I cannot understand the difference, I acknowledge. If they were not Legislatures, how will you get at it? The political power of this country has said that they were Legislatures. I might differ on that as an original proposition. They were certainly *de facto* Legislatures, if not *de jure*. At any rate I do not propose to open at this late day that question. I do not propose to open a great many things that happened during the war. I do not think there was anything much that happened during the war except irregularities.

But I cannot understand the idea of my friend, the Senator from Arkansas, [Mr. GARLAND,] that the amendments were legally adopted and yet were not adopted. I do not choose to open that question; but as was said by the Senator from Tennessee, [Mr. BAILEY,] and so well said, it does seem to me we all agree that the amendments are valid parts of the Constitution, and that being so it ought to be satisfactory, and there we ought to rest the question.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Arkansas [Mr. GARLAND] to the substitute offered by the Senator from Alabama, [Mr. MORGAN,] upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. BUTLER, (when his name was called.) On this question I am paired with the Senator from Nebraska, [Mr. SAUNDERS.] If he were here, I suppose he would vote "nay" and I should vote "yea."

Mr. HOAR, (when the name of Mr. DAWES was called.) My colleague [Mr. DAWES] is paired on this question with the Senator from Connecticut, [Mr. BARNUM.]

Mr. DENNIS, (when his name was called.) On this question I am paired with the Senator from South Carolina, [Mr. PATTERSON.] I should vote "yea" and he would vote "nay," if he were present.

Mr. EDMUNDS, (when his name was called.) "Nay." Mr. President, I beg pardon, I am paired with the Senator from Ohio, [Mr. THURMAN.]

Mr. HEREFORD, (when his name was called.) When the Senator from Nevada [Mr. SHARON] left the Chamber I paired with him. Since that time the Senator from Delaware [Mr. SAULSBURY] had to leave the Chamber and I transferred my pair to him, so that those two Senators are paired on this question. I vote "nay."

Mr. JONES, of Florida, (when his name was called.) I am paired with the Senator from Michigan, [Mr. CHRISTIANCY.] As he is not here I decline to vote.

Mr. McPHERSON, (when his name was called.) On this question I am paired with the Senator from Arkansas, [Mr. DORSEY.]

Mr. EATON, (when Mr. RANSOM's name was called.) On this question the Senator from North Carolina [Mr. RANSOM] is paired with the Senator from Nevada, [Mr. JONES.]

Mr. WADLEIGH, (when his name was called.) I am paired with the Senator from Maryland, [Mr. WHYTE.] If he were present, I should vote "nay."

The Secretary concluded the call of the roll.

Mr. KIRKWOOD. My colleague [Mr. ALLISON] is paired on this subject with the Senator from Kentucky, [Mr. McCREERY.] I am very sure if my colleague were here, he would vote "nay."

The result was announced—yeas 5, nays 34; as follows:

YEAS—5.

Beck,	Harris,	McDonald,	Voorhees.
Garland,			

NAYS—34.

Anthony,	Conover,	Kellogg,	Oglesby,
Bailey,	Davis of W. Va.,	Kernan,	Paddock,
Booth,	Ferry,	Kirkwood,	Plumb,
Bruce,	Gordon,	McMillan,	Rollins,
Burnside,	Hamlin,	Matthews,	Spencer,
Cameron of Pa.,	Hereford,	Maxey,	Teller,
Cameron of Wis.,	Hill,	Mitchell,	Windom.
Coke,	Hoar,	Morgan,	
Conkling,	Howe,	Morrill,	

ABSENT—37.

Allison,	Dennis,	Lamar,	Sharon,
Barnum,	Dorsey,	McCreery,	Shields,
Bayard,	Eaton,	McPherson,	Thurman,
Blaine,	Edmunds,	Merrimon,	Wadleigh,
Butler,	Eustis,	Patterson,	Wallace,
Chaffee,	Grover,	Randolph,	Whyte,
Christiancy,	Ingalls,	Ransom,	Withers.
Cockrell,	Johnston,	Sargent,	
Davis of Illinois,	Jones of Florida,	Saulsbury,	
Dawes,	Jones of Nevada,	Saunders,	

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the substitute offered by the Senator from Alabama [Mr. MORGAN] to the resolution of the Senator from Vermont.

Mr. EDMUNDS. I propose to amend the first resolution of the Senator from Alabama by adding at the end the following:

And that the right of the people peaceably to assemble for the purpose of petitioning Congress for redress of grievances or for anything else connected with the powers and duties of the National Government, is an attribute of national citizenship, and as such under the protection of and guaranteed by the United States and within the scope of the sovereignty of the United States to protect by penal laws.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont to the substitute of the Senator from Alabama.

Mr. MORGAN. The amendment offered by the Senator from Vermont introduces into this discussion an entirely new element. I am a little surprised, if he thought it of any consequence at all, that he had not introduced it into his own resolutions. Evidently it is an afterthought of the Senator, doubtless intended for the purpose of patching up something that he has omitted to patch up heretofore. The Senate is very thin, and I think the Senator ought to allow us as a minority here to-night to have some time for the consideration of his amendment. I ask that it be printed. Let it be printed for the information of the Senate.

Mr. VOORHEES. I ask to have the amendment reported.

The PRESIDING OFFICER. The amendment of the Senator from Vermont will be reported.

The Secretary read the amendment.

Mr. MORGAN. To the word "grievances" the amendment seems to be almost in conformity with the language of the Constitution. After that it takes a wide departure, and would justify a meeting for almost any purpose that the Senator from Vermont might desire. I do not say he would desire meetings for any illegitimate purpose, yet he might, as, for instance, meetings for the purpose of obstructing railroads and the right to conduct their business across the State of Connecticut or any other Northern State, or meetings for the purpose of obstructing the general interests of society. I do not understand that the Constitution of the United States has any application to such meetings as those.

There are a great many meetings that might be held under the latter part of the amendment following the word "grievances" which are not expressly sanctioned by the amendment to the Constitution to which it refers. The Senator is trying, in other words, to interpret very broadly that amendment for the purpose of including every sort of assemblage that the people of different States or communities might desire to organize, it makes no difference for what purpose, so that in the opinion of the Senate it might be a legitimate purpose. Congress does not seem to me to have the duty to preside at all these meetings and to take cognizance of them.

Mr. GORDON, (at seven o'clock and fifteen minutes p. m.) Will the Senator from Alabama give way to a motion to adjourn?

Mr. MORGAN. I was about to make a motion to adjourn. I appeal to the Senator from Vermont and others, inasmuch as he has introduced here an entirely new element in the discussion, that he ought not to desire to have a vote upon it when this side of the Senate unfortunately is very thin. It is a mere party movement to force upon us anything in the world the Senator from Vermont may desire to force upon us, and Senators on that side will assume that position, as they are bound to do, on this new presentation of the resolutions. As a matter of course they will vote us down, but I appeal to the Senator and to the Senate to sustain the motion that I now make that the Senate do adjourn.

Mr. EDMUNDS. Oh, no.

The PRESIDING OFFICER. The question is on the motion of the Senator from Alabama, that the Senate do now adjourn.

The PRESIDING OFFICER put the question, and declared that the noes appeared to prevail.

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

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. HOAR, (when the name of Mr. DAWES was called.) On this question my colleague [Mr. DAWES] is paired with the Senator from Connecticut, [Mr. BARNUM.]

Mr. EDMUNDS, (when his name was called.) I am paired on all political questions with the Senator from Ohio, [Mr. THURMAN.] I should vote "nay," if at liberty to do so.

Mr. WADLEIGH, (when his name was called.) I am paired with the Senator from Maryland, [Mr. WHYTE.]

The roll-call was concluded.

Mr. KIRKWOOD. My colleague [Mr. ALLISON] is paired with the Senator from Kentucky, [Mr. MCCREERY.]

The result was announced—yeas 6, nays 25; as follows:

YEAS—6.

Beck,	Garland,	McDonald,	Maxey.
Coke,	Harris,		

NAYS—25.

Anthony,	Conover,	McMillan,	Rollins,
Bayard,	Ferry,	Matthews,	Spencer,
Bruce,	Hamlin,	Mitchell,	Teller,
Burnside,	Hoar,	Morrill,	Windom.
Cameron of Pa.,	Howe,	Oglesby,	
Cameron of Wis.,	Kellogg,	Paddock,	
Conkling,	Kirkwood,	Plumb,	

ABSENT—45.

Allison,	Dennis,	Jones of Nevada,	Saunders,
Bailey,	Dorsey,	Kernan,	Sharon,
Barnum,	Eaton,	Lamar,	Shields,
Blaine,	Edmunds,	McCreery,	Thurman,
Booth,	Eustis,	McPherson,	Voorhees,
Butler,	Gordon,	Merrimon,	Wadleigh,
Chaffee,	Grover,	Morgan,	Wallace,
Christiancy,	Hereford,	Patterson,	Whyte,
Cockrell,	Hill,	Randolph,	Withers.
Davis of Illinois,	Ingalls,	Ransom,	
Davis of West Va.,	Johnston,	Sargent,	
Dawes,	Jones of Florida,	Saulsbury,	

The PRESIDING OFFICER. Upon the motion to adjourn the yeas are 6 and the nays 25. There is no quorum voting.

Mr. EDMUNDS. I move that there be a call of the Senate.

The PRESIDING OFFICER. The Secretary will call the roll of the Senate, which it is the duty of the Chair to order, the Chair understands, whenever it is disclosed that there is no quorum present.

Mr. KIRKWOOD. My colleague [Mr. ALLISON] is unwell and is not able to be here.

The Secretary called the roll, and fifty-one Senators answered to their names.

The PRESIDING OFFICER. The question recurs upon the motion of the Senator from Alabama [Mr. MORGAN] to adjourn.

Mr. EDMUNDS. No, Mr. President, we can refuse to adjourn without a quorum. The question recurs on the amendment I have offered to the first resolution of the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Vermont is correct.

Mr. EDMUNDS. And on that question I ask for the yeas and nays.

The PRESIDING OFFICER. The motion to adjourn was voted down, although there was not a majority of the Senate voting. The call since discloses a majority of the Senate present, and the motion to adjourn fails. The question now recurs on the amendment of the Senator from Vermont to the substitute of the Senator from Alabama, on which the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. BAYARD. Mr. President, I merely wish to call the attention of the Senate and of the country to the spirit in which this matter of constitutional allegiance and duty is being managed by the Senator from Vermont. The first article of amendment to the Constitution is in the following words:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The Supreme Court of the United States in passing upon the first amendments that were adopted shortly after the ratification, declared them to be inhibitions upon the powers of the Federal Government. We have now an attempt made to transpose the meaning and the object of that inhibition upon Federal power into a proposition for securing by Federal power the very right alleged to exist in the States. Petition for the redress of grievances is prevented by the Constitution from being interfered with by the power of the United States. In resolutions purporting to interpret the meaning and force of certain amendments to the Constitution, it is proposed to insert that which is a mere mockery of the language and of the intent in which that language was used in the first article of the amendments to the Constitution. Not content with that, however, the amendment which has just been read from the desk asks much more, not simply for the redress of grievances but in a certain drag-net style of expression for other purposes which relate to national affairs.

The object of the amendment is in some way to procure from the Senate a recognition of the doctrine which the honorable Senator from Vermont not only foreshadowed in his resolutions but also by the debate which has followed on this floor, that he does claim for the Congress of the United States the power to be the sole judge as to whether the occasion has arisen to determine whether in its sole judgment all the powers, the fundamental rights, and principles, among which was the right peaceably to assemble and petition for a redress of grievances, that whole class of fundamental civil rights and privileges, can be in the discretion of the Congress of the United States transferred from the domain of State control into the hands of unlimited Federal power.

It is that doctrine which he first urged in debate; it is that doctrine which was contained in his first resolutions, and still adroitly again to be proposed now by using the language of the Constitution, but intended for a wholly different purpose, expressly to protect the people of the States against the intervening power of Congress; it is the intent now to make that same expression that I desire to record my vote against most positively. I had much rather that the vote could have been taken directly upon the original resolutions of the Senator from Vermont. I was most desirous to record my vote in opposition to his resolutions, and I gave to the Senate my reasons for it yesterday.

Mr. President, it seems to me that we in appealing to the intelligence of the American people should present to this body something better than an attempt, an unjust attempt, to place political opponents in a false position. I can only say that in my judgment it is a poor business and one in which I am not likely to be found to be occupied. The same principle that would prevent me in my individual dealing with a man from stating his case unfairly, or from seeking to entrap him in a statement that might discredit him or be injurious to him which he did not intend to make, will guide me in my action here, whether by the votes I cast, the resolutions I offer, or by the remarks I make. If there should be a fair open question as to the construction of the Constitution and the effects that may follow it, it is most plainly the duty as it is the right of any Senator to portray the error, to develop the danger, and to show the unsafety to the country of permitting such doctrines to control him. But surely attempts made to make political capital from votes in this body, to state the position of Senators otherwise than really those Senators desire their position to be stated, is, as I have said, a matter for which I will profess respect nowhere but disrespect everywhere.

The issue is made. It does not underlie the attempts, the object, the necessary meaning of the resolutions offered here by the Senator from Vermont, as I endeavored yesterday to show, to pursue a centralizing policy of legislation which shall gradually absorb into the hands of the Government of the Union all those powers which are essential to the safety and sovereign existence of the States. That is the issue. The dangers of that are open to argument and may be demonstrated with more or less force. It is against that that I shall vote, no matter in what form it may come.

I cannot say that I hold it much worthy of this time and of our present duties to be passing abstract resolutions at all in respect of constitutional construction. Let measures be proposed definite in their character, and then we may square them by our ideas of constitutional duty and power, and vote accordingly, and be criticised for those votes. The impolicy, the unwisdom, or the contrary can appear and will appear in debate; but at this time, with no measure before the Senate, with but a few short weeks remaining in which business of the greatest importance to the interests of this country should be transacted, I hold that it is most unwise, most unwarranted, that these hours of the session should be prolonged in what I cannot but regard as attempts at political finesse. We profess on all sides to submit our action to the intelligence of the country, to the sense of virtue of the country; and the best proof, I think, that can be given of the reality of that belief and confidence is to vote simply and squarely and positively, the reasons being given for or against propositions; they may be opposed because they are untimely; they may be opposed because they are unnecessary; or they may be opposed because they are wrong *per se* and dangerous.

I cannot but feel something of impatience to have the question gravely asked, passing to and fro across this Chamber, whether provisions of the Constitution, which men have been solemnly sworn, publicly and in this Chamber without mental reservation or evasion to support, can in the opinion of a Senator be repealed by a joint resolution of the two Houses of Congress. I can imagine but one answer that would come from any man upon that subject. Anything that becomes part of the Constitution can only cease to become part of it by amendment in the mode pointed out by itself. Then what can be the object of this debate or of this character of resolutions, except to create some false impression, or to create some hook upon which to hang an argument, ingenious or otherwise, that may succeed in placing a doubt in the minds of one portion of our fellow-countrymen of the fidelity of the rest in regard to that which their representatives have sworn to sustain? Mr. President, there is a public intelligence and candor that can judge of this matter and judge of the actors in these proceedings by the course they take; and to that judgment I am willing to submit myself.

Mr. BECK. Mr. President, there never has been a moment since these political conundrums were presented that I was not ready to vote upon them. I have never regarded them as having been offered in good faith or with a desire to accomplish any honest purpose, and therefore I have been prepared to vote against the resolutions of the Senator from Vermont and for the substitute offered by the Senator from Alabama or any proper amendment to it. Grave questions affecting the best interests of this people are before the Senate, questions relative to taxation, measures seeking to relieve the people from burdens, to the extending of our commerce, to aid them in a variety of ways; but they have all been set aside, perhaps forever in this Congress, and a political debate, meaning nothing, asking for nothing, proposing nothing, has been kept before the Senate for a week in order to endeavor to fool the country and to enable some Senator to make people somewhere believe that there are men here who were

seeking to destroy their liberties and overthrow their Constitution and laws.

Fifteen months ago I presented to the Committee on the Judiciary of the Senate a bill seeking for the removal of all political disabilities in order to place men upon an equality everywhere. I presented another bill seeking to repeal the test oaths, which President Grant had years ago said were a farce, as only men who could take them were required to take them, and men who could not were not required to do so. I presented bills before that committee seeking to reform the jury law and remove odious disqualifications, so as to allow trials to be had before United States courts with men who were competent to sit upon juries, having a right to sit there. I presented another bill before that committee, providing that young men, most of whom were too young to take part in the confederate army, should now have a right to seek positions in the Army and Navy of the United States, from which they are now debarred. When I went to the distinguished chairman of the Committee on the Judiciary asking consideration of the bill for that purpose, and said to him that a boy who was a page in a State Legislature in the South during the war could not now serve his country and was debarred because of existing laws from seeking these places, while men could be Presidents and Vice-Presidents and Senators and members of Congress no matter how high they were in the confederacy, and asked him to report the bill, I was met by a sneer and the remark, "Why didn't he run for the United States Senate?" That closed our conversation on the subject.

There has been no good faith in the action of the Judiciary Committee in seeking to give peace to the country, in seeking to give relief to the people, in seeking to bring men together and make us once more a homogeneous people; but on the contrary the committee which stands charged with the most important duties to the country hold back all those great measures, and will not even allow the Senate to consider them, but its chairman seeks to occupy the attention of the Senate with political conundrums that mean nothing, but distract, divide, and make still more bitter the feelings that are fast dying out and would have been dead long ago but for the effort of a few politicians to keep them alive.

Therefore I say that in all this debate I have taken no interest whatever, but have sought to bring the questions to a vote and to proceed with the legitimate business of the country. I declare it to be my opinion that the Judiciary Committee, under the lead of the Senator from Vermont, has withheld from this Senate great and important measures that would have brought peace to this people and would have restored harmony among them; they have withheld from the Senate the right to vote upon questions repealing test oaths, removing political disabilities, giving litigants honest juries where they have a right to have them, and giving the young men who have a right to aspire to any of the positions in the country the right to fill them. These measures have been withheld from the Senate in their committee-room, held back even until now when we are met by political conundrums which are intended to produce and revive bad feeling all over the land; and the Senator from Vermont complains that we will not give him authority to bring in the measures he desires to present! *There is only one thing to be thankful for,* and that is that in less than thirty days this Congress will expire and the Committee on the Judiciary will be dissolved and other and fairer men will have control of it. [Applause in the galleries.]

The PRESIDING OFFICER. There will be no applause allowed in the galleries. If there should be any more the galleries will be cleared.

Mr. BECK. I desire practical legislation. I want peace, and I want harmony. I want Louisiana, Alabama, and South Carolina to maintain the same relations in this great country that Vermont, Massachusetts, and New Hampshire do. I insist that every man, black or white, rich or poor, democrat or republican, shall stand as equals before the law; and I want the committees of this Congress when they are appointed to frame legislation to lay the bills looking to legitimate ends, either with their approval or disapproval, before the Congress of the country, and let the representatives of the people in the House and Senate determine what they will do, and not hold back to gratify themselves, as they have done, measures which they ought to have laid before us, and then meet us with political conundrums that are sought to divide and distract us, especially when the chairman of that committee rises and complains that we will not give him the authority he has had all the time to do anything he wanted to do. I am tired of all such pretenses. That is all I care to say, Mr. President.

Mr. EDMUNDS. Mr. President, I do not want to take up the time of the Senate. I am rather refreshed that the Senator from Kentucky has rubbed his own ears sufficiently to enable him to speak as loudly as is necessary in respect of the Judiciary Committee and me. To all that he has said that is personally offensive, I will say nothing at all; this is not the place for it. As to the Judiciary Committee, the Senator ought to know, if he does not—I presume he does not from the way he speaks—that if he is dissatisfied with that committee's holding any bill too long he has only to move, on one day's notice, to discharge the committee, and if the Senate think that the committee ought to report the bill he can have it reported at any time. I suppose the Senator did not know there was such a method to secure action or he would not have made such a rumpus for nothing.

Mr. BECK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Vermont yield to the Senator from Kentucky?

Mr. EDMUNDS. I am done. The Senator from Kentucky shall have all the time he wants.

Mr. BECK. If I had done as the Senator now suggests I would have met the taunts, and sneers, and insults indirectly of the Senator from Vermont, with the assurance that they were overworked in doing all they could, when in fact they were seeking to cover up the things they ought to bring forward and bringing up those that they ought not. I knew the power of the Senator; I knew his mode of expression and the way in which he could make the wrong appear the better reason, and the way in which he could put down plain men like myself with but little experience in this Chamber. But I again repeat that I congratulate the country that the scepter is departing from Judah, and that other men will be in his place very soon.

Mr. MERRIMON. Mr. President, I do not rise to join in the debate, which has been protracted so long. I simply wish to offer an amendment to the amendment proposed by the Senator from Vermont, which will place a class of human rights which arise under the Constitution, to which it seems he has failed to advert——

The PRESIDING OFFICER. The Chair understands that a further amendment is not now in order.

Mr. HOAR. Let it be reported for information.

The PRESIDING OFFICER. The proposed amendment will be reported for information, but the Chair understands that it is not in order.

Mr. MERRIMON. I beg to ask the Chair what is the state of the question? There are not two amendments to the substitute pending?

Mr. EDMUNDS. The substitute is an amendment.

The PRESIDING OFFICER. The substitute is an amendment, the Chair understands.

Mr. MERRIMON. No, sir; under the rule the substitute being a motion to strike out and insert, is regarded as one original question.

Mr. EDMUNDS. Oh, no; the Senator is mistaken; the substitute is an amendment to strike out and insert.

Mr. MERRIMON. The substitute is a motion to strike out the original resolutions and insert, and the two are to be taken as one amendment.

Mr. EDMUNDS. Not at all.

The PRESIDING OFFICER. The Senator from North Carolina will send his amendment to the Chair.

Mr. MORGAN. Will the Senator from North Carolina yield to me for a moment?

Mr. MERRIMON. Yes, sir, I will.

Mr. MITCHELL. I ask that the amendment be reported.

The PRESIDING OFFICER. The reading of the amendment offered by the Senator from North Carolina has been called for. It will be reported. The Senator from Alabama will then have the floor, subject to the will of the Senator from North Carolina.

Mr. MORGAN. I merely desire to say to the Senator from North Carolina that I think I can remove any difficulty he may have under the rules in offering his amendment.

Mr. MERRIMON. I want to call the attention of the Chair to a part of Rule 31, which will save further trouble.

The PRESIDING OFFICER. The amendment proposed by the Senator from North Carolina will be reported.

The SECRETARY. It is proposed to add to the amendment of the Senator from Vermont to the substitute of the Senator from Alabama the following:

That the several States are coequal and in all respects on an equal footing in the Union, and that every citizen is well entitled and eligible to share in all rights of protection for life, liberty, and property, in filling all offices, places of honor, trust, and profit, except in cases expressly excepted, and all benefits and advantages under the Constitution of the United States, unless because of crime, whereof he shall have been duly convicted; and all laws and clauses of laws abridging such rights or discriminating against any citizen or class of citizens by test oaths, or otherwise, contravene the spirit of the Constitution, are unwise, and ought to be abolished.

Mr. MERRIMON. Now, Mr. President, I beg to call to the attention of the Chair what I read from Rule 31:

But pending a motion to strike out and insert, the part to be stricken out and the part to be inserted shall each be regarded for the purpose of amendment as a question.

I do not understand that there are two amendments pending, and it is competent that there shall be two.

Mr. EDMUNDS. The Senator is mistaken as to the attitude of the question, even if the rule would apply, which I do not admit. My amendment is not to strike out any part of the amendment of the Senator from Alabama, (and if so the Senator would be mistaken,) but it is merely a motion to add. The Senator from Alabama moved to amend my resolutions by striking out all after the word "Resolved," and inserting something. I moved to amend that amendment by adding a few words to his first resolution.

Mr. MERRIMON. I understand that the Senator from Alabama has moved to strike out and insert.

Mr. EDMUNDS. Yes.

Mr. MERRIMON. And there is one amendment to his substitute. He proposes a substitute which becomes a principal proposition, and there being but one amendment to that amendment I propose a second,

Mr. EDMUNDS. That will not do.

Mr. MORGAN. On the question now before the Senate, if I have a right to submit the remarks I desire, I will proceed. I desire to explain to some extent the object of the amendment offered by the Senator from Vermont.

The PRESIDING OFFICER. The question of order raised by the Senator from North Carolina has not been disposed of. If the Senator desires to proceed he can do so. The Chair has not announced the decision upon that question yet. Does the Senator from North Carolina yield to the Senator from Alabama?

Mr. MERRIMON. My purpose was simply to call this branch of the rule to the attention of the Chair. I understood that the Chair had made a ruling that the amendment I offer is not in order; and it will so stand unless he reverses it.

The PRESIDING OFFICER. The Chair will consider the matter, and submit it to the Senate after the Senator from Alabama concludes.

Mr. MORGAN. My desire is to take such action on the amendment of the Senator from Vermont as will make the amendment of the Senator from North Carolina legitimate beyond question, I think. The Senator from Vermont has offered an amendment to my substitute. Of course I take it that the Senator from Vermont is acting in entire good faith in offering this amendment to the substitute, desiring to improve the substitute, so that possibly he may be able to vote for it, or in the event of a majority being against him in the Senate, that he may at last have the resolutions in the best form that he can obtain them. The Supreme Court of the United States has declared (I will not say decided because the point perhaps was not immediately under decision) that—

The right of the people peaceably to assemble for the purpose of petitioning Congress for a redress of grievances, or for anything else connected with the powers or the duties of the national Government, is an attribute of national citizenship, and, as such, under the protection of, and guaranteed by, the United States.

The Senator from Vermont has added some expressions to that declaration on the part of the Supreme Court in the case of Cruikshank which I conceive do not vary the effect. The Senator has made no intimation that he thought it did vary the effect of this declaration in the body of the opinion of the court. Therefore, finding that the declaration embodied in the amendment proposed by the Senator from Vermont is a declaration in accordance with what the Supreme Court has decided to be a constitutional right attaching to citizenship of the United States, I am disposed to accept it. It is very true that the Senator from Vermont in his long and labored examination of this question did not think it was necessary until a very late moment in the debate to introduce this part of the declaration of the Supreme Court of the United States, but in the introduction of this part of that declaration the Senator has confessedly admitted that the power of Congress extends only to the enforcement of those parts of the Constitution in which a right is expressly conferred upon the people in their character as citizens of the United States.

In the arguments which I had the honor to submit to the Senate, as well as in my substitute to the resolutions of the Senator from Vermont, the doctrine has been distinctly recognized that where any person held a right by express grant under the Constitution of the United States in virtue of citizenship of the United States, then it is the right and duty of the Congress to protect and preserve that person in the enjoyment of that right. That is the doctrine and the only doctrine for which I have contended from the beginning of this debate. Unless the right could be found to be conferred by express provisions of the Constitution of the United States upon persons either named or designated by a certain description in the Constitution, the jurisdiction of Congress does not attach to enforce the right, but the jurisdiction belongs to the States.

Citizenship of the United States has not only been declared in the Constitution but it has been expressly defined by the Supreme Court of the United States in the Slaughter-House cases. Belonging to that character of citizenship, that relation created by the Constitution of the country itself, are certain rights which are brought by the express provisions of the Constitution within the power of Congress; and the right which is disclosed or mentioned in the amendment of the Senator from Vermont is a right of that description. Therefore it would follow that the Congress of the United States has the right to protect citizens of the United States in the right peaceably to assemble for the purpose of petitioning Congress for a redress of grievances. Suppose, for the purpose of contrasting this with the opposing view, the people had assembled in their own States for the purpose of petitioning their own Legislatures for a redress of grievances, then it would be entirely obvious that the Congress of the United States would have no jurisdiction over the matter, because the right which is claimed by the people to petition for a redress of grievances would not relate to any power of Congress but would relate to a power of the State Legislature. It is therefore correct in principle that the right being conferred expressly by an amendment of the Constitution upon the people to assemble and petition Congress for a redress of grievances. Congress has the power to protect them in that right. I cannot deny that proposition. It is in perfect harmony with every position that I have taken in this debate. I have never denied to Congress the power to protect the people in the enjoyment of those rights conferred expressly by the Constitution of the United States, when the jurisdiction for the protection of those rights has been given to Congress; but beyond that point we have no right to go. When the States undertake to protect rights which were in existence before the Constitution was adopted, then the jurisdiction to protect those rights belongs to the States and not to Congress.

I therefore will accept the amendment of the Senator from Vermont, supposing of course that he has fallen in love with my substitute and desires us to amend it so that he may find it in his conscience to vote for it. If he desires to put into this substitute any other part of the Constitution to which he thinks we ought to make express reference, if he desires that the Constitution of the United States shall after nearly a century of trial be helped up, propped up, and supported by resolutions to be adopted in the Senate as the resolutions simply of the Senate and not of Congress, and if the Senator will inform us how much of the Constitution he desires to have recited in these resolutions, certainly I shall be very glad to accommodate him. I accept the amendment.

Mr. MERRIMON. I ask the Chair to rule upon the point which I made.

The PRESIDING OFFICER. The Senator from North Carolina submitted an amendment which the Chair ruled was not in order. The Chair now believes that he was mistaken in the decision which was rendered, as the last clause of the thirty-first rule provides that—

Pending a motion to strike out and insert, the part to be stricken out and the part to be inserted shall each be regarded for the purpose of amendment as a question.

The Chair did not have before him the resolutions of the Senator from Vermont and the substitute offered by the Senator from Alabama at the time, and he considered the substitute as an amendment, and thought they should be treated separately. The amendment of the Senator from North Carolina to the amendment of the Senator from Vermont the Chair decides to be in order.

Mr. EDMUNDS. I merely want to put in a protest against that ruling, and not appeal, because it takes too much time. I think the Chair has misunderstood the rule, through somebody's advice, and that his original opinion was the correct one.

Mr. MORGAN. I will inquire now whether the amendment of the Senator from Vermont which I have accepted is embodied in my substitute?

Mr. EDMUNDS. Not much, Mr. President. The Senator cannot accept my amendment when the yeas and nays are ordered, or in any other way. I want a vote of the Senate upon it.

Mr. MORGAN. Then the Senator from Vermont objects to my accepting his amendment?

Mr. EDMUNDS. Most decidedly. I want the Senate to accept it by its vote.

Mr. MORGAN. Then I withdraw my offer to accept it.

Mr. EDMUNDS. All right.

Mr. MERRIMON. I understand the Chair to decide that my amendment to the amendment is in order.

The PRESIDING OFFICER. The Chair has decided that the amendment of the Senator from North Carolina is in order. It has already been reported. The question is upon the amendment of the Senator from North Carolina to the amendment of the Senator from Vermont.

Mr. EDMUNDS. Then, if I understand it, the Senator from North Carolina, the Chair ruling it to be correct, moves to strike out all that I propose to insert, and to put in, in place of what I propose, what has been read.

The PRESIDING OFFICER. The Chair did not so understand the amendment of the Senator from North Carolina.

Mr. EDMUNDS. Then will the Chair state what it is?

Mr. MERRIMON. The amendment I presented is an amendment to the amendment proposed by the Senator from Vermont to the substitute offered by the Senator from Alabama. I simply propose to add an amendment to that of the Senator from Vermont.

Mr. KERNAN. I ask that it be reported.

The PRESIDING OFFICER. The amendment proposed by the Senator from Vermont will be reported, and then the amendment proposed by the Senator from North Carolina to be added at the end of that amendment will also be reported.

Mr. KERNAN. I only ask that the amendment offered by the Senator from North Carolina be read.

The PRESIDING OFFICER. They will both be reported so that the Senate can understand them.

The amendment and the amendment to the amendment were read.

Mr. HOAR. I wish to express my thanks to the Senator from North Carolina for having stated the doctrine of woman suffrage so clearly.

Mr. BAILEY. I shall vote against the amendment offered by the Senator from Vermont and the amendment to that amendment offered by the Senator from North Carolina, and for this reason: this is not a school of instruction. I understand this legislative assembly sits here for the purpose of legislating in regard to the great material interests of the public and of the whole country. We are not here for the purpose of sitting at the feet of any gentleman who may be an expounder of constitutional law to learn from him what the Constitution means. These are abstract propositions that have been submitted for the consideration of the Senate here at a late hour of the day. I understood that the Senator from Vermont had, after the most mature study and after careful consideration of the whole sub-

ject, offered the original resolutions. The Senator from Alabama, after consultation with his associates, offered counter resolutions. Upon these I am prepared to vote and am willing to vote, without involving myself in all the questions that may be presented at this hour by gentlemen who are maneuvering for position, for that is what I understand it to mean and to be. These resolutions are intended not for practical advantage, but they are intended to be used for some other purpose. Therefore, I shall vote against all these amendments, as well the one offered by the Senator from Vermont to amend his original resolutions as the amendment offered by the Senator from North Carolina.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from North Carolina.

Mr. MERRIMON. On that I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. SAUNDERS.] I shall therefore decline to vote.

Mr. JONES, of Florida, (when his name was called.) I am paired with the Senator from Michigan, [Mr. CHRISTIANCY.] I do not know how he would vote on this proposition, and I shall decline to vote.

Mr. MCPHERSON, (when his name was called.) On this question I am paired with the Senator from Arkansas, [Mr. DORSEY.]

Mr. MERRIMON, (when his name was called.) I am paired with the Senator from Kansas, [Mr. INGALLS.] I would vote "yea" if he were here.

Mr. EATON, (when the name of Mr. RANSOM was called.) The Senator from North Carolina [Mr. RANSOM] is paired with the Senator from Nevada, [Mr. JONES.] I do not know how either of them would vote.

Mr. HEREFORD, (when the name of Mr. SAULSBURY was called.) The Senator from Delaware [Mr. SAULSBURY] is paired with the Senator from Nevada, [Mr. SHARON.]

The roll-call was concluded.

Mr. EDMUNDS. The Senator from Ohio [Mr. THURMAN] was paired with me on political questions, with authority left with me to transfer his pair, so as to keep it good, to any other Senator who was necessarily absent. His colleague [Mr. MATTHEWS] was obliged to leave the Chamber and his pair is transferred to Mr. MATTHEWS. I therefore vote "nay" on this proposition.

Mr. ROLLINS. My colleague [Mr. WADLEIGH] is paired with the Senator from Maryland, [Mr. WHYTE.] My colleague would vote "nay" if he were here.

Mr. DENNIS. I am paired with the Senator from South Carolina, [Mr. PATTERSON.] If we were not paired, I should vote "yea," but being paired I decline to vote at all. I do not know how he would vote.

Mr. TELLER. My colleague [Mr. CHAFFEE] is paired on questions of this character with the Senator from Louisiana, [Mr. EUSTIS.]

Mr. HOAR. My colleague [Mr. DAWES] is paired with the Senator from Connecticut, [Mr. BARNUM.]

The result was announced—yeas 7, nays 29; as follows:

YEAS—7.

Conover,	Gordon,	Morgan,	Voorhees.
Eaton,	Hill,	Randolph,	

NAYS—29.

Anthony,	Coke,	Hereford,	Morrill,
Bailey,	Conkling,	Hoar,	Rollins,
Booth,	Davis of W. Va.,	Howe,	Spencer,
Bruce,	Edmunds,	Kellogg,	Teller,
Burnside,	Ferry,	Kirkwood,	Windom.
Cameron of Pa.,	Garland,	McMillan,	
Cameron of Wis.,	Hamlin,	Maxey,	
Cockrell,	Harris,	Mitchell,	

ABSENT—40.

Allison,	Dennis,	McCreery,	Sargent,
Barnum,	Dorsey,	McDonald,	Saulsbury,
Bayard,	Eustis,	McPherson,	Saunders,
Beck,	Grover,	Matthews,	Sharon,
Blaine,	Ingalls,	Merrimon,	Shields,
Butler,	Johnston,	Oglesby,	Thurman,
Chaffee,	Jones of Florida,	Paddock,	Wadleigh,
Christiancy,	Jones of Nevada,	Patterson,	Wallace,
Davis of Illinois,	Kernan,	Plumb,	Whyte,
Dawes,	Lamar,	Ransom,	Withers.

The PRESIDING OFFICER. The vote discloses no quorum of the Senate present.

Mr. EDMUNDS. The Chair will have the roll called under the rule.

The PRESIDING OFFICER. The Secretary will call the roll to ascertain if there is a quorum present.

The Secretary proceeded to call the roll, and 45 Senators answered to their names.

The PRESIDING OFFICER. A quorum is present. The question recurs on the amendment of the Senator from North Carolina to the amendment of the Senator from Vermont, upon which the yeas and nays have been ordered.

Mr. BAYARD. I did not vote upon this amendment of the Senator from North Carolina because I did not comprehend it. As read from the desk rapidly it is impossible to catch the full meaning of these words, and I hold it to be not only improper but absurd and unworthy of this Senate to be passing opinions upon grave constitutional questions that may affect the rights of so many without the thorough and grave and careful study of the propositions involved. I value too much the intention with which I perform my duties here to perform them in any other than a grave spirit. For questions of this kind there should be deliberation. I do not desire to reject a proposition, coming whence it may, if upon examination I find it harmless or wholesome; but I certainly do not desire to stand upon the record approving a proposition which may be fraught with consequences that I am unable to follow out. I would prefer in this case not to vote; and I shall therefore withhold my vote again, except it be for the purpose of making a quorum of the Senate. It is not that I imagine anything objectionable in the propositions of the Senator from North Carolina; but I hold them to be unnecessary. I do not know what construction may upon examination be fairly attributable to the language he has used.

It must not be forgotten that we are dealing all the time with limited powers. It is only a question of power; it is not whether a thing be right or wrong with which a member of the Federal Congress has to deal. It is not only whether it is right and proper, but it is whether it is legitimate, whether it is within his control, whether the power to deal with the subject has been delegated to the Congress of the United States; and therefore it is that I am very chary of voting for resolutions affirming powers or denying powers until I have with great deliberation examined them.

Why, sir, my opinion or expression, impotent as it may be to affect others, is yet very dear to me. I require oftentimes more aid than do the learned judges of the Supreme Court to know whether an act is within my constitutional competency. They are assisted by delay, by deliberation, by the printed arguments and briefs of able counsel, and then and unwillingly do they approach the decision of constitutional powers. But here it seems that in a session of the Senate prolonged now without intermission for nearly nine hours, we are called upon to have grave constitutional views promulgated from the desk in the rapid tones of a clerk, and then to pass upon them and say that we shall bind ourselves by this expression of opinion. Sir, it is not the proper way in which opinions should be formed or should be expressed. It is not respectful to the instrument which we undertake to interpret. There is a lack of decorum in proceedings conducted as these have been. It is not the question of standing by an opinion, of standing steadily by honest convictions of right, and open and manly expression of well-formed and considered opinions, but it is degrading these questions of grave constitutional duty to the level of a moot-court or of some debating society.

I do not say this with any intention to be disrespectful to my honorable friend from North Carolina, because he may have carefully and studiously and deliberately prepared this proposition. I do not doubt that he has; but that preparation which he has given is known only to himself; it was brought before no committee of the body; it was heard by no member of the Senate known to me until rapidly read by the Clerk at the desk; and I therefore submit that if it be important that we should sift our consciences and vote here some sort of political catechism for future reference or aid, at least the question should be put in print that the scholar who is to reply may know precisely what answer he is to give.

Mr. MERRIMON. Mr. President, I beg to say just a word. I did not accompany the amendment that I offered with any words of explanation, and I did not do it because of my desire to save time. I thought it was so simple, so plain, that he who ran might read and understand. It contains three simple propositions, and how any American can vote against them I cannot understand. First, it declares the equality of the States in the Union; then, in the second place, it declares the right of all citizens of the United States to share equally in all rights under the Constitution of the United States except in cases expressly excepted; it then declares that all laws that discriminate, by providing test-oaths or otherwise, against any class of the people contravene the spirit of the Constitution and ought to be abolished. If that is anti-American, if that is going to compromise the principles of anybody or going to compromise his record, I cannot see it. For myself, I am ready to declare that I will always stand by that doctrine. It does not involve any complication at all. It is as simple as A B C, and because it is so simple I did not accompany the introduction of the amendment with a single word of explanation.

A word as to the other point made by the Senator from Delaware, that it is unwise, that it is indecorous, that it is unparliamentary, that it is exceedingly improper to be introducing these abstract propositions. That is his opinion. Perhaps under some circumstances I might concur with him, but he must have observed—I am sure I have—that a very large portion of the Senate think otherwise and differ from him and perhaps from me also; and while one class of rights arising under the Constitution of the United States are to be embraced and propped up and strengthened by declaratory resolutions of an abstract character I was anxious to see another class embraced in which those whom I have the honor to represent upon this floor have a very deep and anxious interest. Therefore I offered the amendment, and though it should receive but one vote it will receive mine, and I am sorry to know that there is an American Senator who can find it in his heart to vote against the principles embodied in the amendment.

Mr. COKE. Mr. President, I desire to say that I voted against the amendment of the Senator from North Carolina. I did so not that I differed with the propositions announced in the amendment, but because I desired to vote down every proposition that comes before the Senate so that we may get at once to the main question and dispose of it, to the end that we may get at some other business.

The propositions involved in the amendment of the Senator from North Carolina meet my hearty concurrence, and any measure offered to this body in which they can be made of practical application I will support; but I would not support them when they were offered just now because I believed they obstructed—of course they were not so intended—the great end that we are now seeking to arrive at, to wit, to terminate this discussion by a vote upon the main question so as to put it at rest and get to some other business.

The PRESIDING OFFICER. The question is on the amendment of the Senator from North Carolina to the amendment of the Senator from Vermont.

Mr. DAVIS, of West Virginia. I submit to the President whether, a few moments ago, he did not decide that when a quorum was found here and there was a decided vote against adjournment, he, without having the roll called again, said the motion was lost? Is not this in the same condition?

The PRESIDING OFFICER. That was because a minority of the Senate can adjourn, but they cannot pass any action.

Mr. DAVIS, of West Virginia. Mr. President——

The PRESIDING OFFICER. That is the decision of the Chair. If the Senator appeals the Chair will put the question to the Senate.

Mr. DAVIS, of West Virginia. Perhaps I did not make myself understood. The Chair's decision of course is the decision of the Chair; but it is not of the Senate as yet. That we understand. The question I asked and submitted is with full respect to the Chair; I had no wish to question the Chair's ruling. A short time ago, when a quorum was shown by the roll-call, did not the Chair decide that the motion previously voted on was lost without calling the yeas and nays on the motion the second time?

The PRESIDING OFFICER. The Chair so decided.

Mr. DAVIS, of West Virginia. That being so, another proposition is offered by the Senator from North Carolina and lost by a very large vote. Now I ask the Chair whether the same ruling would not prevent us from taking a yea-and-nay vote again on that? That was my question.

The PRESIDING OFFICER. The Chair answered it, with all due respect to the Senator, and did not consider the Senator as criticising the decision of the Chair. The Chair stated to the Senator that a minority of the Senate could refuse to adjourn, but a minority of the Senate could not vote down any proposition before it in the way of an amendment or anything of that kind, and the Chair still adheres to the decision.

Mr. DAVIS, of West Virginia. I have no wish to question the opinion of the Chair. I submitted the question to the Chair.

The PRESIDING OFFICER. So the Chair understood.

Mr. DAVIS, of West Virginia. My object was to save a call of the roll again if possible.

The PRESIDING OFFICER. The Chair would be very glad to dispense with it if he could, but he conceives that he cannot under the rules of the Senate. The question recurs now on the amendment of the Senator from North Carolina [Mr. MERRIMON] to the amendment of the Senator from Alabama, [Mr. MORGAN.]

The Secretary proceeded to call the roll.

Mr. DENNIS, (when his name was called.) I am paired with the Senator from South Carolina, [Mr. PATTERSON.] Not knowing how he would vote on this particular amendment, I decline to vote.

Mr. JONES, of Florida, (when his name was called.) I am paired with the Senator from Michigan [Mr. CHRISTIANCY] upon all questions, and I decline to vote.

Mr. McPHERSON, (when his name was called.) I am paired with the Senator from Arkansas, [Mr. DORSEY.]

Mr. MERRIMON, (when his name was called.) I am paired with the Senator from Kansas, [Mr. INGALLS.] I would vote "yea" if he were here.

Mr. EATON, (when Mr. RANSOM'S name was called.) I ought to say that the Senator from North Carolina [Mr. RANSOM] is paired with the Senator from Nevada, [Mr. JONES.]

The roll-call was concluded.

Mr. BUTLER. I am paired with the Senator from Nebraska [Mr. SAUNDERS] on this question. If here, he would vote "nay" and I should vote "yea."

The result was announced—yeas 11, nays 29; as follows:

YEAS—11.

Bayard,	Eaton,	Hill,	Randolph,
Beck,	Gordon,	McDonald,	Voorhees.
Conover	Hereford,	Morgan,	

NAYS—29.

Anthony,	Coke,	Hoar,	Oglesby,
Bailey,	Conkling,	Howe,	Plumb,
Booth,	Davis of West Va.,	Kellogg,	Spencer,
Bruce,	Edmunds,	Kirkwood,	Teller,
Burnside,	Ferry,	McMillan,	Windom.
Cameron of Pa.,	Garland,	Maxey,	
Cameron of Wis.,	Hamlin,	Mitchell,	
Cockrell,	Harris,	Morrill,	

ABSENT—36.

Allison,	Dorsey,	McCreery,	Saulsbury,
Barnum,	Eustis,	McPherson,	Saunders,
Blaine,	Grover,	Matthews,	Sharon,
Butler,	Ingalls,	Merrimon,	Shields,
Chaffee,	Johnston,	Paddock,	Thurman,
Christiancy,	Jones of Florida,	Patterson,	Wadleigh,
Davis of Illinois,	Jones of Nevada,	Ransom,	Wallace,
Dawes,	Kernan,	Rollins,	Whyte,
Dennis,	Lamar,	Sargent,	Withers.

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Vermont [Mr. EDMUNDS] to the substitute offered by the Senator from Alabama, [Mr. MORGAN,] upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. BUTLER, (when his name was called.) On this question I am paired with the Senator from Nebraska, [Mr. SAUNDERS,] who left the Chamber complaining of being sick.

Mr. DENNIS, (when his name was called). I am paired with the Senator from South Carolina [Mr. PATTERSON] on this question. He would vote "yea," if here, and I should vote "nay."

Mr. JONES, of Florida, (when his name was called.) I am paired with the Senator from Michigan, [Mr. CHRISTIANCY.] If he were here, I should vote "nay;" I do not know how he would vote.

The roll-call was concluded.

Mr. McPHERSON. On this question I am paired with the Senator from Arkansas, [Mr. DORSEY.] Were he here, I should vote "nay."

Mr. HEREFORD. On this question the Senator from Delaware [Mr. SAULSBURY] is paired with the Senator from Nevada, [Mr. SHARON.] The Senator from Delaware, if here, would vote "nay.'

Mr. ROLLINS. My colleague [Mr. WADLEIGH] is paired with the Senator from Maryland, [Mr. WHYTE.] My colleague would vote "yea" if present.

The result was announced—yeas 25, nays 16; as follows:

YEAS—25.

Anthony,	Conover,	McMillan,	Rollins,
Booth,	Edmunds,	Mitchell,	Spencer,
Bruce,	Ferry,	Morgan,	Teller,
Burnside,	Hamlin,	Morrill,	Windom.
Cameron of Pa.,	Howe,	Oglesby,	
Cameron of Wis.,	Kellogg,	Paddock,	
Conkling,	Kirkwood,	Plumb,	

NAYS—16.

Bailey,	Coke,	Gordon,	Lamar,
Bayard,	Davis of W. Va.,	Harris,	McDonald,
Beck,	Eaton,	Hereford,	Maxey,
Cockrell,	Garland,	Kernan,	Voorhees.

ABSENT—35.

Allison,	Dorsey,	McCreery,	Saunders,
Barnum,	Eustis,	McPherson,	Sharon,
Blaine,	Grover,	Matthews,	Shields,
Butler,	Hill,	Merrimon,	Thurman,
Chaffee,	Hoar,	Patterson,	Wadleigh,
Christiancy,	Ingalls,	Randolph,	Wallace,
Davis of Illinois,	Johnston,	Ransom,	Whyte,
Dawes,	Jones of Florida,	Sargent.	Withers.
Dennis,	Jones of Nevada,	Saulsbury,	

So the amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on the substitute offered by the Senator from Alabama [Mr. MORGAN] as amended.

Mr. EDMUNDS. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. BUTLER, (when his name was called.) On this question I am paired with the Senator from Nebraska, [Mr. SAUNDERS.] If he were here, I do not know how he would vote; I should vote "nay."

Mr. DENNIS, (when his name was called.) I am paired with the Senator from South Carolina [Mr. PATTERSON] on this question. He would vote "nay," if present, and I should vote "yea."

Mr. EATON, (when Mr. RANSOM'S name was called.) I am requested to say that the Senator from North Carolina [Mr. RANSOM] is paired with the Senator from Nevada, [Mr. JONES.] I do not know how either of them would vote.

The roll-call was concluded.

Mr. McPHERSON. On this question I am paired with the Senator from Arkansas, [Mr. DORSEY.] Were he here, I should vote "yea."

Mr. HOAR. My colleague [Mr. DAWES] is paired with the Senator from Connecticut, [Mr. BARNUM.]

Mr. JONES, of Florida. I am paired with the Senator from Michigan, [Mr. CHRISTIANCY.] If he were here, I should vote "yea."

Mr. ROLLINS. My colleague [Mr. WADLEIGH] is paired with the Senator from Maryland, [Mr. WHYTE.] My colleague would undoubtedly vote "nay" on this question.

The result was announced—yeas 13, nays 26, as follows:

YEAS—13.

Bayard,	Davis of W. Va.,	Lamar,	Voorhees.
Beck,	Gordon,	McDonald,	
Cockrell.	Hereford,	Maxey,	
Coke,	Hill,	Morgan,	

NAYS—26.

Anthony,	Conover,	Kellogg,	Plumb,
Booth,	Edmunds,	Kirkwood,	Rollins,
Bruce,	Ferry,	McMillan,	Spencer,
Burnside,	Garland,	Mitchell,	Teller,
Cameron of Pa.,	Hamlin,	Morrill,	Windom.
Cameron of Wis.,	Hoar,	Oglesby,	
Conkling,	Howe,	Paddock,	

ABSENT—37.

Allison,	Dorsey,	McCreery,	Sharon,
Bailey,	Eaton,	McPherson,	Shields,
Barnum,	Eustis,	Matthews,	Thurman,
Blaine,	Grover,	Merrimon,	Wadleigh,
Butler,	Harris,	Patterson,	Wallace,
Chaffee,	Ingalls,	Randolph,	Whyte,
Christiancy,	Johnston,	Ransom,	Withers.
Davis of Illinois,	Jones of Florida,	Sargent,	
Dawes,	Jones of Nevada,	Saulsbury,	
Dennis,	Kernan,	Saunders,	

So the substitute was rejected.

The PRESIDING OFFICER. The question now recurs on the resolutions of the Senator from Vermont, upon which the yeas and nays have already been ordered.

Mr. EATON. Mr. President, at this hour I do not desire to be heard at any length on the subject now before the Senate. I have regarded the putting of these resolutions by the honorable Senator from Vermont before the Senate as a simple political movement. Such has been my opinion. I think I am correct when I say that the object—I do not say it is a wrong one; that is a matter that must be settled between the mover and his own conscience; therefore I do not impugn his motive, but I think the object was, and it could be no other, than the small hope of having a little political influence hereafter. I have my views; they have been expressed not infrequently in the last dozen years, with regard to all these amendments to the Constitution, and it is not necessary that I should express them now; but believing this whole matter was introduced in the nature of a political boomerang, I should have been very glad to have gotten up an instrument that would have effected something more than I believe would have been effected by the resolutions introduced by my friend from Alabama. Therefore I did not vote for them. While I do not offer any resolutions as a substitute, I should have liked to have it put upon the record and let it gone out to the whole people of all the States in this Union that the democratic party of the Senate stood on these resolutions which I will read.

Mr. MORGAN. Will the Senator from Connecticut allow me a word?

Mr. EATON. Certainly.

Mr. MORGAN. Let me suggest that anything can be offered now as an amendment.

Mr. EATON. I know that; but I assure my friend from Alabama that I do not choose to offer these resolutions as an amendment, but they express my views:

Resolved, That in the judgment of the Senate the Constitution of the United States, including all the amendments thereto, is of paramount authority in each State in the Union, and all powers not surrendered or delegated therein remain in the States or the people thereof.

Legislation by Congress on all questions touching the personal rights of any class of citizens of any State or States should only be had in the event that the authority of the State or States either fails to provide by law for the equal protection of all citizens in the enjoyment of their constitutional rights or antagonizes any of the delegated powers enumerated and contained in the Constitution.

The Constitution is to be interpreted in its entirety, irrespective of the time or circumstances at or under which any part or parts of it may have been ratified by the States.

Sir, those resolutions express my views. Without going into a discussion of them I desire that they should go into the RECORD and go out to the country; and I desire further to say that the second resolution is formed directly and exactly upon the opinions expressed by Madison and by Hamilton that were read by the honorable Senator from Maryland [Mr. WHYTE] this afternoon. That second resolution has been a resolution that contains the principle that for seventy years has governed the people of this great American country.

Mr. MORGAN. If that be true, why does not the Senator ask the support of the democratic side of the Senate by offering them?

Mr. EATON. The question is asked me in good faith; it shall be answered candidly in good faith. Another series of resolutions had been submitted by my friend from Alabama, and I did not choose to antagonize those resolutions with my own.

Mr. MORGAN. I will suggest to the Senator from Connecticut that my resolutions were loaded down with amendments of the Senator from Vermont, who was an enemy to my resolutions.

Mr. EATON. That is very true. If this was, as I believe it to have been, a simple political movement, then I desire to place myself before the people of my State and of the whole country upon resolutions that no man dare impugn and no man dare say one word against. I have yet to learn that the thirteenth, fourteenth, and fifteenth amendments are holier than the rest of the Constitution of the United States. I have yet to learn that amendments that my friend from Arkansas is not alone in believing were scarcely ratified in a constitutional manner are to be held up continually before the people of the country.

Mr. President, what does the honorable Senator from Vermont expect to make by that series of resolutions which he has introduced? It is not a declaration of Congress; it is a mere opinion of the Senate; it is not a law or a bill sought to be passed into a law; it is an opinion or a set of opinions offered by the honorable Senator from Vermont and for some object or other, and what? Why is it that about once in twelve months, either here or elsewhere, either public conventions of my friends, the republicans, or leading Senators in this body, offer resolutions with regard to the thirteenth, fourteenth, and fifteenth amendments? Is it for political capital? Is it in the hope that they will gain some political capital because the democracy of the Senate refuse to vote for the resolutions in the particular shape in which they are presented? It would be to write down the intelligent people of the United States as fools.

Sir, the people are tired of this business and, as was well said by my friend from West Virginia, the people are now looking for their bread and meat. They desire that the Congress of the United States should not sit here until nine o'clock or twelve o'clock at night quarreling over mere resolutions expressive of political opinions, but that they should so legislate that the great interests of the country shall be protected. That is what the people desire, and, in my judgment, the resolutions introduced by the Senator from Vermont will come back upon the party of which he is, so far as these resolutions are concerned, the acknowledged leader. At all events, so far as I am concerned, I desire to stand upon the principles enunciated in the resolutions which I have had the honor to read, and with those in my hand I will go before the people of my own State or any other State in this Union, and meet courageously and unflinchingly any man or set of men.

Mr. HOAR. Mr. President, the Senator from Connecticut, [Mr. EATON,] with his usual clearness and compactness of statement, has repeated a charge which has been made on that side of the Chamber many times during this discussion, that these resolutions have no practical importance or relation to anything pending before the American people, but are a mere naked declaration for political effect. I desire for myself (and I think I have the right to do it for those of my political associates whose opinions I know) to utterly repudiate and deny the accusation which has come from the democratic side of the Chamber.

Mr. President, these resolutions relate to the one subject which is today of most practical and vital importance in this country. There is a reason why the thirteenth, fourteenth and fifteenth amendments should be singled out and the allegiance of the American people specially challenged to them to-day. The rest of the Constitution provides through what processes, through what instrumentalities, under what restraints the sovereignty of the American people is to be exercised in legislation. A violation of any constitutional right declared in the remainder of the instrument ordinarily may be remedied by the ordinary judicial process of the courts and begins and ends in its evil consequences with the particular individual who suffers. But these three great amendments are the declaration in the National Constitution as to where the sovereignty in this Republic is lodged. The rest of the Constitution declares how the sovereignty shall be exercised; but unless these three amendments are enforced the sovereign himself cannot remain on the throne.

For all national purposes, with the exception and in the mode which the National Constitution provides, the majority of the American people, with such qualifications and conditions as are within the power of every sane man, are entitled to wield, counting their votes man for man, equal and equal, the vast national powers of this Republic. Now, if you deny a trial by jury to a citizen of South Carolina, the matter is of no interest to the citizen of Connecticut or Massachusetts, except that possibly by the like process his own right to a jury trial may be denied. If you put a South Carolina citizen in peril twice for the same offense, nobody is hurt but the man who is subjected to the trial; and so on with all the great rights asserted or guaranteed by the National Constitution. But if a minority in the State of South Carolina or Mississippi take possession of the Legislature of that State and send a Senator here who does not represent the constitutional will of the people of that State, but who represents fraud, who represents lawlessness, the sovereignty of Massachusetts is stricken down by that act.

Sir, this Senate have thought the question important enough to make one of its first acts after its assemblage the raising of a committee composed of some of its ablest members, and the sending them from their seats to ascertain whether these facts are true, and I suppose we have the right to say, without anticipating the report of that committee, that the condition of things which that report will disclose is to be the condition of things in this country in some States when State authority alone is trusted to defend these great national rights.

Mr. EATON. May I ask the Senator from Massachusetts a question?

Mr. HOAR. I will yield before I get through; but I should like to get through with this point.

Mr. EATON. It is right at this point I desire to ask a question.

Mr. HOAR. I would rather the Senator would wait until I get through, if he pleases.

Mr. MORGAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Alabama?

Mr. HOAR. I will yield to the Senator from Connecticut now because I cannot yield to the Senator from Alabama without yielding to him, and I wish to return to the Senator that courtesy. He yielded to me.

Mr. EATON. The Senator from Massachusetts has assumed, and I suppose properly, to know with regard to these resolutions and their authorship. I will now ask him right here in connection with what he is saying, if these resolutions were drawn for the purpose of meeting any supposed case in South Carolina, Mississippi, or Louisiana?

Mr. HOAR. That is not a question which should properly be propounded to me, because I cannot know with what motive the Senator from Vermont drew the resolutions.

Mr. EATON. I understood that the Senator from Massachusetts claimed full knowledge with regard to the paternity of the resolutions.

Mr. HOAR. I said nothing on that subject.

Mr. MORGAN. I wish to ask the Senator from Massachusetts whether he has not an equal right to anticipate that the investigations of that committee will disclose great frauds in Massachusetts, in New York, also in Nevada, also in Pennsylvania, and also in Colorado, especially when charges have been preferred by a member of the House of Representatives against the chairman of that committee in reference to the conduct of elections in Colorado?

Mr. HOAR. Mr. President, I will say nothing in regard to the other States, but so far as the suggestion is made that either fraud, intimidation, or any other illegal or immoral act interfered with the full and free expression of the will of the people of Massachusetts in the recent election, it is a charge so ridiculous and contemptible as to excite the derision of all well-informed men of either party in that Commonwealth.

Mr. MORGAN. I will ask the Senator from Massachusetts if those charges have not been made in the public press, and also whether they have not been drawn to the attention of the Senate in debate here, and whether he knows without an investigation whether they be true or not?

Mr. HOAR. I have said nothing in regard to the truth or falsehood of any such charge except as relates to Massachusetts. What I have said was this: that the condition of things, whether in Massachusetts or Colorado or South Carolina or Mississippi or Alabama, that this investigation will disclose, we may assume to be the condition of things which if according to the theory of the other side of the Chamber the protection of these rights is left to the States will continue. That is all. I have not entered upon the question of what that condition is. Now, I say that if it shall be true in any State that fraud, intimidation, violence, assassination have wrested from the people of that State the political power, so that Senators come to this Chamber or Representatives to the other who do not reflect the will of the majority of that people, then is the sovereignty of Massachusetts, or the sovereignty of Minnesota, or the sovereignty of Vermont, stricken down by that act just as much as the sovereignty of the people of the State where these offenses exist.

Mr. MORGAN. Then the Senator admits there is sovereignty in the States.

Mr. HOAR. I do; there is a great deal. Now, Mr. President, I think it is true that it is a question of a good deal of practical importance in what authority in this country is ultimately lodged the protection of these rights which, whether they are conferred or not, are secured, guaranteed, ay more, are called into being for the first time by national authority by virtue of these three amendments to the Constitution. The Senator from Alabama has quoted an *obiter dictum* not essential to the decision in the cause, for which one judge only of the Supreme Court of the United States is responsible, that the right of suffrage has not been conferred by the national Constitution on any citizen, and all that he has got conferred on him is the constitutional right to exemption from discrimination. Why, I should like to know what the Senator from Alabama would say to this? The constitution of Indiana to-day declares that all white male citizens may vote, and then it goes on to say that no negro or mulatto shall vote, and unless I am mistaken that is written in the constitution of Indiana in force to-day.

Mr. MORGAN. I will say this, that——

Mr. HOAR. Where, then, comes in the force of the constitutional amendment of the United States. Allow me to finish my point and then I will yield to the Senator.

Mr. MORGAN. I understood the Senator from Massachusetts to ask me a question which he desired me to respond to.

Mr. HOAR. Not at this moment, if the Senator will pardon me. I cannot make a consecutive statement in this way.

Mr. MORGAN. The Senator asked me a question.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. HOAR. The Senator has not heard the whole point of the question yet. The Senator knows I would not for the world fail in any proper or senatorial courtesy to him, and he may be sure that I will see that his opportunity is preserved.

Mr. MORGAN. I supposed when the Senator put the question he desired an answer.

Mr. HOAR. Certainly, but I had not yet made the point of the question. The constitution of Indiana, unless I am misinformed, contains the clauses which I have stated.

Mr. McDONALD. No, the Senator is mistaken. The constitution of Indiana does not say anything at all about colored persons; but the constitution as framed in 1850, and adopted in 1851, described the right of suffrage by which it was limited to free white citizens of the United States, and to persons of foreign birth who had resided in the State and declared their intention to become citizens of the United States.

Mr. HOAR. Unless the Senator is quite sure, I thought it contained an additional clause that no negro or mulatto shall vote.

Mr. McDONALD. No, sir. It simply prescribes the qualification of voters.

Mr. HOAR. However, the point is the same.

Mr. McDONALD. In which it says that certain persons shall vote, and gives no such right to any others.

Mr. HOAR. Now, where does a colored man in Indiana get the right to vote?

Mr. McDONALD. By the recognition of the fifteenth amendment.

Mr. HOAR. Exactly.

Mr. McDONALD. And its force and effect as the paramount law.

Mr. HOAR. The State of Indiana in 1850 gave to its free white male citizens the right to vote, and it did not give it to anybody else, and it has not done anything or taken any action on that subject since. Then comes in the Constitution of the United States and declares that no State shall discriminate against a colored man. Now, it seems to me that it is the idlest sticking in the bark to say that this right of suffrage was not conferred on the colored man in Indiana by virtue of the amendment to the Constitution of the United States.

Mr. MORGAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Alabama?

Mr. HOAR. Yes, sir.

Mr. MORGAN. The Senator from Massachusetts asked me a question which the Senator from Indiana has most completely answered to my satisfaction. The fourteenth and fifteenth amendments, by their own force, without the assistance of any action of Congress at all, broke down all impediments, whether found in the laws or the constitution of Indiana, which obstructed a man from his right to vote in consequence of his race, color, or previous condition; and it is by the force of that constitutional provision that that right is secured. Now, I wish to ask the Senator from Massachusetts a question, and it is this——

Mr. HOAR. But who granted that?

Mr. MORGAN. Does he believe it necessary, in addition to the fourteenth and fifteenth amendments, to pass an act of Congress authorizing persons of color to vote in Indiana, and in the event they are not permitted to vote in Indiana to punish any person there for denying them the privilege?

Mr. HOAR. I do not understand that the Senator from Alabama has answered my question.

Mr. MORGAN. You have not answered mine either.

Mr. HOAR. I wish to have mine answered first. In 1851 the State of Indiana gave by its constitution to its free white male citizens the right to vote, and it has done nothing whatever since on that subject. It has not made a gift or a grant or taken any action whatever. Then comes in the Constitution of the United States and declares that no State shall discriminate. Now, who gave the colored man or the mulatto in Indiana the right to vote? From what authority did he derive it? And what authority is pledged to guarantee it and to enforce it and to secure it when it is in peril?

Mr. EATON. If my friend put a question there, I should like to answer it.

The PRESIDING OFFICER. Will the Senator from Massachusetts yield to the Senator from Connecticut?

Mr. HOAR. Certainly, if the Senator from Alabama has no further answer.

Mr. MORGAN. Was the question put to me?

Mr. EATON. The Senator from Massachusetts put a question which I desire the privilege to answer. When he asks who gave this right to vote, I answer not Congress, not the Federal Government, but three-quarters of the States of the Union gave that right. That is the answer.

Mr. HOAR. Mr. President, I did not like to contradict the distinguished Senator from Indiana in regard to the pharseology of his own constitution which I quoted from memory; therefore I yielded five minutes ago to his contradiction; but I am sorry to say that I find I was right. Here is the constitution of Indiana: first having said, as he and I both recollected, that all free white citizens should vote, section 5, article 2 provides:

> No negro or mulatto shall have the right of suffrage.

And that is the constitution of Indiana to-day.

Mr. EDMUNDS. Yet he has got it by that constitution!

Mr. HOAR. And yet he has got it. The State says no negro or mulatto shall have the right of suffrage, and then comes in the Constitution of the United States and declares that there shall not be any discrimination against color, and by virtue of that declaration the negro in Indiana votes; and yet our friends on the other side of the Chamber say he got that gift from the imperial bounty of the sovereign State of Indiana.

Mr. MORGAN. Now, Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield?

Mr. MORGAN. I desire to repeat my question to the Senator from Massachusetts. Does he consider it necessary to pass an act of Congress, in addition to the fourteenth and fifteenth amendments, to

enable the people in Indiana, blacks and mulattoes, to have the right to vote?

Mr. HOAR. To give them the right to vote?

Mr. MORGAN. Yes.

Mr. HOAR. No. They got the right to vote by the recognition by the national constitutional authority of the American Republic of what the Declaration of Independence declares to be the birthright of every man. But the practical question between the republican and the democratic parties is this: suppose a State fails to secure that right, not by putting on record frankly and freely as the people of Indiana did in their constitution the prohibition or the discrimination; but suppose by a process as sure and as certain as ever was a constitutional process carried out in courts, enforced by sheriffs and by constables and by juries, the people of a State band themselves together, or a minority of the people but the superiors in physical force and in intelligence, practically to deny and to break down that right; suppose bands gather at midnight and separate with the morning sun, under whose rule it is as sure death to the negro or the mulatto to undertake to vote a republican ticket as if it were written in a constitution or a statute that the attempt to exercise that right should be punishable with death; ay, more certain, because in the case of the legal prohibition you would at least have the jury trial and the presiding judge, and the bill of exceptions and the pardon and the law enacted beforehand, but under this reign you have the execution of the sentence, the trial, and the charge all concentrated into one brief moment at midnight.

Now, what are you going to do about that, suppose the State does not interfere? We say that the strongest power on this earth, the power of the American people, is pledged and by the grace of God shall be exercised to protect these poor men against that species of denial or inhibition, whether you have got a statute on your statute-book or not, and whether you have made a constitution which contains in form every guarantee for constitutional liberty from Magna Charta through the Declaration of Independence down to the three constitutional amendments or not. We propose that the power of this Republic shall be exerted to put down that condition of things if the State fails. That is the one simple, practical question that the American people desire to have put to the democratic party. Now, gentlemen, will you answer it? That is the practical question. Will you stand up in the face of the American people and answer that question, any of you? The Senator from Alabama meets the question by a series of sentences cunningly culled, no, shrewdly. I do not think the word "cunningly" is the word I ought to apply to any gentleman in this Chamber and I withdraw it, but shrewdly, carefully, ingeniously culled from decisions of the Supreme Court where they have declared a few things that they think you cannot do, and that is all he has got to say about it. He skips what the Supreme Court have said you can do.

It follows that this amendment—

Says the Supreme Court—

has invested the citizens of the United States with a new constitutional right which is within the protecting power of Congress. This, under the express provisions of the second section, Congress may enforce by appropriate legislation.

Now the Senator from Connecticut [Mr. EATON] in the resolutions which he likes, but which he does not offer and to which he does not invite the assent of his democratic colleagues on the other side of the Chamber, has come a little nearer to it. He says Congress cannot legislate except where the States discriminate by positive enactment.

Mr. EATON. No; I do not say that.

Mr. HOAR. In substance.

Mr. EATON. That there ought not to be such legislation except in the case stated.

Mr. HOAR. That there ought not to be except where the States discriminate or where the States fail. But he does not tell us, even he from liberty-loving, puritan Connecticut does not tell us, whether in those cases or either or both of them there ought to be legislation. It is a pretty remarkable thing when the Senate sends out its committees to know whether these things are going on in the South, and those of us who stay at home are busied in looking to see what, if we find they are going on, is the constitutional remedy, to be met by a great party in this country with the declaration simply of several things that they think we cannot possibly do. What can you do about it, Mr. Senator from Alabama, if South Carolina does not choose to remedy it, suppose these things happen there? What can you do about it if Massachusetts does not propose to remedy it, suppose these things happen there? That is what we want to know.

Mr. MORGAN. If the Senator puts his question to me, although I did not hear his preliminary observations, I should like to say this: if a white man were to go from my State to the State of Massachusetts who could not read the Constitution and write, he would be excluded of course from suffrage. If a negro were to go who could not read and write, according to the Senator's doctrine being protected by an original grant in the right to vote, from the Constitution of the United States, he would have the right to vote there whether he could read and write or not. Hence a black man would have very much the advantage of a white man. Now, I should like to say, that because I happen to be of the white race—perhaps it is a matter of regret that I am, in the estimation at least of the Senator from Massachusetts—I believe that I prefer the rights of the white man to those of the negro when they are put in that category.

Mr. HOAR. If the Senator from Alabama or his colored friend, whose case he has supposed, should come to Massachusetts and could not read and write we would teach him, and we would have him a very good scholar by the next presidential election.

Mr. MORGAN. But he could not vote until he was taught, and therefore his right to vote would not depend upon the Constitution of the United States, but upon the skill and ability of my learned friend in teaching his African friend to read and write. That is what it comes to.

Mr. HOAR. If the Senator from Alabama is really serious in making that point——

Mr. MORGAN. Serious! Your constitution is serious about it, and how could I be otherwise?

Mr. HOAR. Does not the Senator from Alabama see that a constitutional provision which imposes restrictions by reason of residence, or by reason of being under age, or by reason of not knowing how to read, conditions which any sane man can easily acquire, does not deny the right of suffrage to them at all? It is a very different thing from putting upon a race a prohibition by reason of color, by reason of race, or by reason of previous condition which the party cannot help. These three amendments removed from every American male citizen every restriction from the right of suffrage which it was not in his power to remove himself.

Mr. MORGAN. Will the Senator allow me to ask him a question, as he asked me a question when I was upon the floor?

Mr. HOAR. Certainly.

Mr. MORGAN. I will ask this question. We have a right to impose, as a penalty for a violation of a law of the United States, as they have in the States, the penalty of slavery, under the thirteenth amendment. That is expressly reserved.

Mr. HOAR. That is the Senator's construction.

Mr. MORGAN. There is no construction about it; it is the express language of the Constitution. Suppose the Congress of the United States should impose as one of the penalties for denying to a colored man the right to vote, that the citizen who so denied him that right should be sold into slavery, would the Senator from Massachusetts consider that there was any violation of the Constitution in such an act of Congress?

Mr. HOAR. I have not read the Constitution——

Mr. MORGAN. I am sorry.

Mr. HOAR. With any spectacles which enable me to discover that there is any slavery left there, and I cannot undertake to answer questions about constitutional results which are predicated on that supposition.

Mr. MORGAN. Does not the Senator remember that the Constitution of the United States in the thirteenth amendment reserves the imposition of slavery as one of the punishments to be inflicted upon persons for crime? Whenever by a law of the United States you declare it to be a crime for a man to interfere with the right of a colored citizen to vote on account of race, color, or previous condition of servitude, may you not impose slavery upon a white man for a violation of that law?

Mr. HOAR. I do not so read the Constitution.

Mr. MORGAN. Then how does the Senator read it?

Mr. HOAR. I do not understand that when we abolished slavery the exception was that any man who committed a crime might be sold into slavery. That exception is from the involuntary servitude part of the clause and not from the other.

Mr. MORGAN. I will read it if the Senator will allow me. I am really regretful to see that a Senator of the age of the Senator from Massachusetts, and one who also has spent a large portion of his time in the House of Representatives, should have forgotten the thirteenth amendment.

Mr. HOAR. I have not forgotten it, but I do not translate it as the Senator does. I remember the language perfectly.

Mr. MORGAN. If the Senator will allow me, I will read the thirteenth amendment:

Neither slavery nor involuntary servitude—

Neither—

except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Mr. HOAR. I understand that to mean that neither slavery nor involuntary servitude shall exist, with the exception named; but I do not understand it to mean by implication that slavery exists at all. The exception is only to the right to impose involuntary servitude. That may be imposed as punishment for crime, but not slavery.

Mr. MORGAN. No, it does not exist; but it may be imposed as a punishment for crime.

Mr. HOAR. That it may be imposed, or is possible under the Constitution? I utterly deny the Senator's interpretation. I did not read the Constitution with spectacles to see how much slavery I could possibly save under it.

Mr. MORGAN. I had the good fortune to read it before I came to the age of spectacles, and therefore I think I could see it more plainly.

Mr. HOAR. If the Senator or the party whose constitutional doctrines he undertakes to expound thinks that slavery may be imposed as a punishment for crime in this country, under his interpretation of that amendment, that is a thing I think the American people would like to know. I do not so read the Constitution.

I only expected to speak two or three minutes when I rose. I differ

with my friends on the other side of the Chamber in another thing. I think these resolutions declaring the meaning and the extent of the constitutional powers or privileges under the amendments are of the greatest practical importance and ought to be passed. How the American people search, how eagerly, how hungrily, how greedily, they search for any utterance of the men who framed the original Constitution. The Madison papers, Mr. Yeates's Reports, and Elliot's Debates have almost the authority with our people of the opinions of the Supreme Court of the United States itself in expounding the meaning of the original instrument. And now, here in the Senate and House are the survivors, large numbers of them, of the statesmen who drafted, the legislative bodies that proposed and ratified these three great amendments upon which the constitutional liberties, rights, and privileges upon which the manhood of large numbers of the American people so essentially depend. I think if the amendments are called into question it is eminently fit that posterity should know how the great generation that won this Constitution and these amendments with their blood, and who enacted them in the fundamental law of the Republic, interpreted their own work. I do not think it is best to leave that to the democracy of South Carolina. I would not dwell on the past, or taunt any gentleman with the past; but I do not think it is best that posterity for a thousand years should depend for its knowledge of the meaning of these amendments solely on the interpretation which it shall derive from a series of resolutions penned by a general in the confederate army. I welcome the gentleman from Alabama to his full and equal place in these halls of legislation. I know, and there is nothing which the people of my own State feel more fully, that when the rebellion was put down it was to bring these men and the States which they represent, not to our feet, but to our side. It was not serfs, it was not dependents, it was equals, companions, and friends which we desired of our southern brethren as the result of our great victory. But still I think, and I think on reflection my friend from Alabama will agree, that when posterity looks back to know how the generation who won these great precious privileges interpreted their own work, there should be some other oracle than that which the democratic party selects in the Senate to-day through whom they shall learn the interpretation.

Mr. MORGAN. Will the Senator allow me to interrupt him? He refers to posterity and the feeling with which they will look back upon the conduct of the present generation. I refer to posterity too, and also to our ancestors. I refer to that eminent band of ancestry from whom I doubt not the Senator from Massachusetts has sprung, who brought the institution of slavery into this country, who captured the slaves in their native land and brought them here and sold them to us, who captured also the Indians by whom they were surrounded and brought them into slavery, established the institution upon this continent in all of its horrors, including the Middle Passage, made speculation out of it, forced it upon the South, forced it upon Georgia, which for twenty years had in her original organic charter laws a prohibition absolutely upon slavery, who sent their priests and ministers down there to convince the Georgians that the malaria of the climate would never do at all for white people, that they could not work the lands, that they must have negroes; and thereby opened the market to our friends from Massachusetts, who brought the slaves down there and sold them, got the money, and then afterward turned around in a philanthropic spirit and took our property away from us.

Mr. HOAR. Mr. President, if that be all true——

Mr. MORGAN. Here is the record; here is the history that proves every word I say.

Mr. HOAR. I propose to take the floor myself now, if my friend pleases.

The PRESIDING OFFICER. The Senator from Massachusetts is entitled to the floor.

Mr. HOAR. If that be all true, does not my honorable friend from Alabama agree with me that we like a little better the constitutional opinions of John Lowell and Samuel Adams and John Adams and James Otis, who abolished this wrong, rather than those of the captains and owners of slave-ships, who established it?

Mr. MORGAN. I am quite satisfied with the constitutional opinions of George Washington, who tolerated the wrong and who owned slaves when fighting for your liberties and mine.

Mr. HOAR. I said a little while ago that the people of my State had a deep interest in the question under what guarantees, by what processes, with what authority, by force of whose power, the constitutional right of the majority of the American people to be represented in the House or Senate to make laws for us was to be secured. We have a deep interest in the question whether Colorado, if the gentleman likes to take his illustration there, shall send two Senators who do not represent the vote of her people, because, in such case, the voice of those two Senators stifles the voice of Massachusetts as completely as if violence had been committed upon her own soil. But after all, in pleading for the priceless boons which these amendments have conferred of freedom, of equality before the law, of the right to suffrage, I am pleading with the representatives of the States where they are in peril for the dearest and best interests of their own people. Look at it, Senators of the South. Just think of the great future which these thirty-eight American States have before them. Precious and glorious as is their history in the past, it dwarfs and pales before the great hope that opens before them. Think of imperial New York, with the commerce which brings the wealth of all nations to her gates. Think of mighty Pennsylvania, with her mines and her factories. Think of Massachusetts, home of the scholar and of the workman. Think of the great Northwest, with its million farms, its million homes, in each of which liberty dwells a perpetual guest. Think of that great coast, where on the shores of a more pacific sea men of our own blood and kindred are in the near future to build States and institutions compared with which anything the East has seen is poor and mean. The streets of a wealthier New York, the halls of a more learned Harvard, the homes of a more cultured Boston, the workshops of a busier Philadelphia, shall grow up on the shore of that vast ocean, across which the American people gaze at the monuments of the oldest civilization of the past. (See Macaulay's History of England, vol. 1, ch. 2.)

Where will you be, men of the South? What shall be the place of your States in this glorious race? Do you wish to be left behind, sucking your thumbs, nursing your wrath, stirring the dregs of an effete and rotten past, cherishing the memory of ancient wrong and crime, studying the American Constitution to see how much of slavery there is left in it? Will you bring up your young men to share in the imperial glory and beauty and hope which the future has for these great American States, or bring them up as a generation half ruffian and half assassin? Do not understand that I charge they are that now. But I say that the policy you are tolerating will bring them to that. Virginia and Georgia and Alabama and Texas are far more richly endowed with opportunity than any States of the North. The States of the South have their great history of the times of their settlement, of the days of the Revolution, of the administration of the Government in the early days of the Constitution. They have their rich lands, their mighty streams, their lofty mountains, their vast and fertile fields, their willing laborers, their brave and restless people. Why will they not embrace and welcome the one thing needed to place them far in advance of other American States, and that is, the great doctrine of justice and of the Constitution which shall secure to every man, white or black, dwelling upon their soil his manhood, his honor, his freedom, his equal suffrage as an American citizen?

Mr. TELLER. Mr. President, I would not detain the Senate with any remarks at this late hour but for the fact that the Senator from Alabama [Mr. MORGAN] saw fit to allude to the State that I in part represent, and also to make a personal allusion to myself. When the resolutions were under discussion with reference to the appointment of a select committee to inquire into the frauds at the recent elections, the honorable Senator from Alabama saw fit to make some charges against the State of Colorado. I replied very briefly at that time, and I then said, as I say now for myself and for all the republicans in Colorado, that we court any investigation into the fairness and the honesty of the late election in that State. I say now that the democratic party of Colorado have not and do not, either through their chosen Representatives or through their public press, demand or ask for any investigation in the election of last October, for that is the time when our State election took place. The honorable gentleman says that a member of Congress has charged upon the republicans of Colorado these crimes, and has charged upon myself, the chairman of this special committee, the participation in them. I deny that the people of Colorado have ever given their confidence to, that they have sent here as their Representative any man who has at any time uttered a single word in that direction.

Mr. MORGAN. Will the Senator allow me to interrupt him?

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Alabama?

Mr. TELLER. Yes, sir.

Mr. MORGAN. Does not the gentleman who now holds the place——

Mr. TELLER. Never mind; I will come to that.

Mr. MORGAN. Wait a moment. Does not the gentleman who now holds the place of Representative from Colorado in the lower House of Congress make these charges against you; and have they not been referred to you as chairman of that committee by the Senator from Ohio, [Mr. THURMAN?]

Mr. TELLER. Senator THURMAN has referred nothing of the kind. I have accepted his charges without any reference from Senator THURMAN. The gentleman who claims to represent the State of Colorado at the other end of the Capitol——

Mr. VOORHEES. Mr. President, I rise to a point of order.

The PRESIDING OFFICER. The Senator from Indiana will state his point of order.

Mr. VOORHEES. There is no question of order better settled in the proceedings of both branches of Congress than that discussions of this kind are out of order. A discussion in one branch of what has been said in the other branch by a member of Congress has always been held to be out of order.

Mr. MORGAN. I beg to interrupt the Senator from Indiana for a moment.

Mr. TELLER. I should like to say to the Senator from Indiana that I am not talking about anything that has occurred in either branch of Congress.

Mr. MORGAN. That to which I referred is an open letter published in the newspaper press of the country, and which everybody reads.

Mr. TELLER. It is not a matter which has anything to do with the other House.

Mr. MORGAN. I did not refer to anything that occurred on the floor of the other House at all.

Mr. VOORHEES. I do not wish to interpose as against anything that the Senator from Colorado desires to say, unless it is going to lead to a personal attack upon a gentleman who cannot reply here, but would lead him to reply in his place in the other branch of Congress. This is no new question to me, for years ago, when I was a member of the House, there was a great disposition between the members of either body to quarrel with each other in this way. The question was then raised in the Senate over and over again. While I do not want the Senator from Colorado to suppose for a moment that I wish to interfere with any proper course of debate, yet there is a limit to this thing. Trusting that the Senator from Colorado will observe that limit, I shall not press my point of order further at this time.

Mr. TELLER. I believe that I understand the proprieties of this place quite as well as the Senator who has just taken his seat. The gentleman, I say, who was never elected, as we say in Colorado, has made charges, referred to by the Senator from Alabama——

Mr. VOORHEES. Now, Mr. President, I rise to press my point of order. The Senator supposes that he understands the proprieties of debate as well as I. Perhaps he does; but I ask the Chair to determine whether my point of order is well taken or not, and whether the Senator from Colorado can go on in order assailing a member of the other House. I say he cannot. I say as a point of order that it is well taken. I gave way to the Senator to go on in perfect good faith and temper. If it is not received in that way, I shall insist upon my point of order. I believe we have to proceed in order, and it shall be done, so far as I am concerned.

Mr. TELLER. I will proceed in order.

Mr. VOORHEES. We will have a ruling of the Chair upon my point of order.

The PRESIDING OFFICER. The Chair will submit the question of order raised by the Senator from Indiana to the Senate for its decision, as the Chair is not familiar with the rules.

Mr. TELLER. I will state that I have said all I desired to say upon that point, and therefore it is not probably necessary to submit the point of order or press the matter further.

Mr. MORGAN. If the Senator from Colorado will allow me, I will state that I expressed no belief or opinion in regard to the truthfulness of the statement of the gentleman in the other House from Colorado. I alluded to it as an allegation made by him through the public prints, and stated that it was a proper subject of investigation.

Mr. TELLER. Mr. President——

The PRESIDING OFFICER. Before the Senator from Colorado proceeds the Chair will state that Senators must not interrupt each other during the discussion. If one Senator desires to ask another Senator who is speaking a question, he will first address the Chair, and the Chair will propound the question to the Senator whether he will submit to an interruption or not. ["That is right!"] Senators must obey the rules in that respect.

Mr. TELLER. If I may be allowed now to proceed I will say that the charges were made and referred to me as chairman of the special committee——

Mr. GARLAND. With the permission of the Senator from Colorado——

The PRESIDING OFFICER. Will the Senator from Colorado yield to the Senator from Arkansas?

Mr. TELLER. I yield.

Mr. GARLAND. The question of order before the Senate has not been disposed of.

The PRESIDING OFFICER. The Chair understood the Senator from Colorado to say that he would not proceed further on that line of discussion, and he would then be in order.

Mr. GARLAND. Then does the Senator from Indiana withdraw his point of order?

Mr. VOORHEES. Of course.

Mr. TELLER. Of course, if I do not pursue the matter further.

The PRESIDING OFFICER. The Senator from Colorado cannot be out of order if he abandons the discussion on which the point of order was raised.

Mr. GARLAND. But the question of order was raised by the Senator from Indiana, and he must abandon it first.

Mr. VOORHEES. If the Senator from Colorado does not desire to press that line of discussion, as a matter of course my point of order is withdrawn.

The PRESIDING OFFICER. When the Senator from Colorado abandons the question about which the point of order was raised, the point of order is no longer in order.

Mr. GARLAND. I think the Chair is mistaken, because the point of order was raised both on what the Senator from Colorado had said and what he was going to say.

The PRESIDING OFFICER. The Chair understood the point of order to be raised upon what the Senator from Colorado intended to say.

Mr. HOAR. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Massachusetts?

Mr. TELLER. I do.

Mr. HOAR. I merely rose to suggest that the only mode of taking the point of order in regard to what the Senator had said would be to have the words taken down and then read.

Mr. GARLAND. That is what I was aiming at.

Mr. HOAR. But the Senator from Indiana abandons any such claim.

The PRESIDING OFFICER. The Senator from Indiana suggested that the Senator from Colorado would discuss questions which ought not to be discussed here, and that it would not be in order; upon which the Senator from Colorado replied that he had said all he intended to say upon that subject.

Mr. VOORHEES. That is it.

Mr. TELLER. I will say that I will not pursue that line of the discussion because it is not material to the question here. It is a matter of small importance. The question is as to the charge and the truth of the charge made. The charges were made, as I said. I replied to them that so far as I was concerned as a member of the committee every opportunity should be given to those who thought they were aggrieved in Colorado or elsewhere to be heard before the committee. Subsequently another letter was written, in which I was personally charged with some misconduct by the same person, charged, as shown by the letter, upon a reported interview in a Colorado democratic paper between the present Senator-elect and a reporter of that paper. The statement I knew, if ever made by the Senator-elect, was utterly unfounded and untrue, and I knew when my attention was called to it that he never had made the statement at all. Subsequently he denied it, or it was denied for him, publicly through the public prints, and, as I understand, it never has been reiterated in Colorado. I took the occasion (which is an unusual thing for me to do) to appear in print, denying it also. It was not perhaps as grave an offense as has been charged upon some others in other sections of the country, but it was of a character that had never been charged upon me in the eighteen years I have lived in the State that I in part represent. It was a charge that not one man out of a thousand in Colorado, be he democrat or republican, would give his assent to for a moment. It was not reiterated in the democratic papers, and it was not believed by the leading democrats of the State as I have reason to know.

I say that if the democrats of Colorado were demanding an investigation, as a member of the committee I am bound to see, if possible, that they have it; but I repeat again that no democratic paper in the State and no man who was a candidate on the democratic State ticket, no man who has been known in Colorado as a politician on that side, aside from the man who made the charge, has intimated or in any shape suggested that they wanted an investigation; but on the contrary men who were on the State democratic ticket have declared that they had no cause of complaint.

Let me call the attention of the Senate to the difference between the condition of affairs in Colorado and in the States of South Carolina and Louisiana. I want the Senate and the country to understand that we have a different class of men in Colorado from what they have in Louisiana. We have no men who have felt the iron hand of the slave power; we are all freemen by birth, with rare exceptions. I trust nobody will think I am egotistical, boasting, when I say that in no portion of the country can you find more intelligent and independent men than have gathered themselves together on the slopes of the Rocky Mountains facing east and west.

I will venture to say that the statistics of our State will show that, aside from the few men who came to us from Mexico, we have more men comparatively who can read and write than any other State in the Union, and you will find in every department of life as many men who have had a collegiate and an academic education, proportioned to our population, as can be found in any other State in the Union. You will find high in the legal profession men of democratic views, you will find men of great wealth who are democrats, you will find members of the bench and bar all over the State who are as capable of defending the democratic party in Colorado as the gentleman who wrote the letter to the committee. Many of these men have held high positions among the people of the State for years.

We have not, as in South Carolina or in Louisiana, a State government composed exclusively of one political party. One-third of our supreme court is democratic. A portion of our district court is democratic. Our trial justices, criminalty magistrates all over the State are men of different political views and political opinions. The United States court is open, and the State courts are open for the trial of any violation of the State law. I say here to-night that there is not a respectable, responsible democrat in the State of Colorado who is demanding an investigation. The democrats of Colorado to-day are as indignant over the charge as the republicans, and they are indignant too that it should be supposed the democrats of Colorado are such arrant cowards that they cannot walk to the polls and deposit their votes as they will. Among the men of that party I count my dearest and best friends—men with whom I am on the closest terms of friendship; and those democrats of Colorado for courage and intelligence, honesty and everything that goes to make up manhood are the equals of any other men. They will see to it that no republican majority of only three thousand, scattered over a State larger than both New York and Pennsylvania, intimidate their neighbors and their friends. It is folly to talk about it; it is ridiculous to talk about it, with all these advantages of protecting themselves. If the democrats of Colorado need anybody to protect them I venture to say they will not come down here to ask it at

the hands of the General Government. They would protect themselves if protection were necessary. If anybody should invade their rights they would go to their courts. If anybody should step up to them and intimidate them at the polls they would resort to their revolvers or their muskets and they would fight it out then and fight it out there. They do not ask any assistance from this body.

Mr. MORGAN. I should like to make an inquiry of the Senator from Colorado.

The PRESIDING OFFICER, (Mr. HOAR in the chair.) Does the Senator from Colorado yield to the Senator from Alabama?

Mr. TELLER. I yield.

Mr. MORGAN. I ask the Senator from Colorado whether he is speaking about Louisiana and South Carolina when he is talking about people using their revolvers, or whether he is speaking about the people of Colorado?

Mr. TELLER. I am talking about the people of the State I represent. Although it may not be exactly according to eastern notions, yet we are very nearly in the same habit of carrying weapons that they are down South. I say that if twenty-seven deputy sheriffs in a town of thirty thousand people, as it is complained, had stood up at the polls and prevented any democrat from going up to vote, there would have been armed men on the ground who would have seen that these men went to the polls and voted as they ought to be allowed to do, if the officers of the law failed to do their duty to protect; and it would have been the same on the other hand if so many republicans had been prevented from going to the polls. We have learned one thing in the western country, and that is independence and self-reliance. That spirit characterizes all our people alike, whether they be democrats or whether they be republicans; and they are not here suing at the hands of this Congress any special protection for privileges that have been granted them alike by the General Government and by the State.

Mr. President, I repeat again as I close that if any democrat in Colorado of respectability desires an investigation he shall have my vote in the committee and he shall have my vote in the Senate at all times to see whether the statement made by the honorable Senator from Alabama is true or whether it is false.

Mr. MORGAN. To what statement does the Senator refer?

Mr. TELLER. I refer to the statement the Senator made some time ago.

Mr. MORGAN. What was that?

Mr. TELLER. That there had been frauds in Colorado equal to any perpetrated in the South.

Mr. MORGAN. I said that I had been so informed through the public prints as well as by private information. I had not then seen the member of the House who made the allegation against the Senator from Colorado and I have not seen him since. I do not know him. He may be or he may not be a man of respectability. At all events he has the *imprimatur* of the State of Colorado as a Representative; he holds a seat in the Congress of the United States, and I had not the slighest doubt that they sent a respectable man as a democrat to Congress. Hence when in an open letter he made a declaration which followed out those charges which I had seen in the public prints, I took occasion to make the statement I did on the floor of the Senate, not in reference to the Senator but in reference to his State. I feel some gratification in knowing that there is a man, even though not respectable in the eyes of the Senator from Colorado, who did come forward to make such asseverations.

I shall be delighted to know that the Senator from Colorado is entirely exempt from those imputations. At the same time I do not think that he can shrink, or that the Senate either can shrink when they have appointed that Senator the chairman of a special committee of investigation, from looking diligently, carefully, and assiduously into the condition of affairs in Colorado which this member of the House of Representatives has said so unfortunately involve the Senator himself in personal delinquencies in the election. I make no assertion about the truthfulness of those declarations. I refer to them as matters which have come to the attention of the country from what I might term official sources. Therefore, when the question was thrust upon me in a previous hour of this debate, I referred not to Colorado alone, but to all the other States to which reference had been made here; and I insisted, as I intend to insist, and have always said that I intended to insist, that the investigation into the conduct of the people of the different States in regard to the elections at the ballot-box should be a full and fair one.

I observe that the Senator from Colorado, who is chairman of this committee, hurried off to the South, I dare say in consequence of the geniality of the climate. I hoped that while there he would form a good opinion of the southern people. I am sorry to see the Senator's association with the people of the South has so far affected his mind that as chairman of that committee, on the floor of the Senate, he must speak in terms excessively derogatory of the people over whom he was sent as a judge. If there is anything I do admire in a judge above another it is impartiality, and also that he should restrain and withhold his judgment not only until the facts come before him but also until the arguments are heard. But now it seems that we have set up some one as a judge who has prepossessed his mind with an idea which will be carried into effect in the deliberations of his committee and reported to the Senate, and with a disturbed idea which seems to have been impressed upon him in reference to the general character of those people down there. We can bear to rest under the contempt of the Senator from Colorado in the South until the Senator gets himself into a judicial or an official position, and then we can scarcely afford it. We feel that there is some injustice done to the position he holds, as well as to us, when in advance of any report or any argument he makes assertions here on the floor of the Senate excessively derogatory to a certain portion of our people over whom that Senator has been set as a judge.

The Senator says the people of Colorado are remarkably intelligent. Who can doubt it after witnessing the exhibition made by their representatives on the floor of the Senate? Did the Senator suppose we would ever question that fact hereafter? He says that they are a very impartial people. Who can doubt that after hearing the Senator's declaration in regard to South Carolina? He was sent down there to investigate those people. Instead of doing it in a spirit of impartiality and justice he sits as a judge who is a stranger among the people, and the Bible says that when a stranger rules in the judgment seat the people suffer.

Not only that, but the Senator from Colorado goes into some of the characteristics of his people on the subject of elections, and asserts that when the law fails them they resort to their bowie-knives and their revolvers and use them with great liberality upon each other. I dare say they do; but allow me to suggest to the honorable Senator from Vermont that that would be a very good feature to put into his repressive resolutions in reference to the right of suffrage at the ballot-box. I have never before heard a Senator on this floor avow that his people, when the law gave out, were in the habit of resorting to the bowie-knife and the revolver for the enforcement of their views about the conduct of an election. I commend that to the honorable Senator from Vermont as one of the best instances in which he can possibly exercise his great abilities in putting in, I would suggest, a peculiar clause for the repression of outrage, bloodshed, and murder at the polls in Colorado. These Colorado voters assemble and some man dares to get up and challenge a vote; thereupon out they whip their revolvers, which I suppose are sanctified in the eyes of the people of Colorado because they have been the chief instrumentalities in bringing the country under civilization and robbing the Indians. They whip out their revolvers and go to work.

I never did conceive at all that the honorable Senator from Colorado got here through such means. I had supposed that his title to a place in the Senate depended upon the quiet influence of the Constitution of the United States and the laws in pursuance thereof. But he, a Senator, elected under such auspices, comes here the baptized child of blood and murder, and offers himself in this Senate under these circumstances as a judge in Israel. I do not understand that the judgeships in Israel were conferred in consequence of just such virtues. I have understood that they were commissions from Heaven, and that they met with perfect acceptance, and through them quiet reigned in every part of the land; but the Senator holds a commission from a State where when the laws are not themselves sufficient to do what the people want to do at the ballot-box they are supplemented by these instruments of terror and death. Of all the most horrid pictures that have ever been drawn to my imagination, that I have yet listened to, of all the tremendous accounts that have been urged against us about mob violence and ruinous practices in the South, I never before heard such a revelation as this. We have at last to learn, out of the confession of the Senator from Colorado, that in fact and in truth the only peaceable people in this country are the much-abused people of the State of Colorado. [Manifestation of applause in the galleries.]

The PRESIDING OFFICER. The Chair gives notice that if any further demonstration of applause occurs from the galleries they will be cleared.

Mr. TELLER. Mr. President, it seems to me that the Senator from Alabama studiously and purposely misinterprets and misrepresents what I said. I said nothing disparagingly toward the people of the South. I referred to the unfortunate class of men who lacked intelligence, the men who had felt the iron hand of slavery. I did not refer to the Anglo-Saxon race in any terms or in any manner.

Mr. MORGAN. I ask the Senator whether he refered to the Chinese? [Laughter.]

Mr. TELLER. I referred to the Africans in the South, and that is all that I did refer to, as the Senator must have known if he had listened to my remarks with the slightest attention. Therefore I have not expressed an opinion as to the matters that have come before the committee. I have not sat in judgment on the people of the South. I suppose everybody in the United States everywhere understands without proof that the men who have so recently emerged from bondage are not the equals of men born free, with rare exceptions. Again the Senator repeats that there was a horrible condition of affairs at the election in Colorado. I will submit that if he intends to be fair, if he intends to do the fair thing as a Senator should on the floor of the Senate, he will take back what he imputes to me as saying, for I never said anything of the kind.

Mr. MORGAN rose.

Mr. TELLER. I decline to be interrupted now, if the Senator pleases. I never said there had been any scene of bloodshed or riot at the Colorado election. On the contrary, a case has yet to be recorded where there ever was a riot at a Colorado election. Can the Senator say as much for the State that he represents? There has

never been any occasion for a man to assert his rights at the polls in Colorado. Can the Senator say as much for the State that he represents? There has never been the exclusion of men entitled to vote from any poll in Colorado. Can the Senator say as much for the State that he represents? If he can, then the records of the Senate are covered with enormous lies; for, if the truth be told by the records, by committees of the Senate, and by committees of the other branch of Congress, a very different condition of affairs has existed in Alabama for some time from what exists in Colorado, equal in all respects to what he would have it appear I said was the condition of affairs in Colorado. I said in substance that if interference, illegal interference, were attempted with a voter in Colorado and legal redress could not be had, there would be bloodshed. I have no doubt of it. The people in the western country believe in maintaining the laws; but they believe in asserting their rights when the law fails. Do not the people of Alabama, with rare exceptions, if you take out the class of unfortunate men who have needed the protection of the Government as no Anglo-Saxon ever needed it, believe the same thing?

I submit, Mr. President, that I have not sat in judgment on the people of the South. I have not depicted such a condition of crime in the State that I represent as the Senator imputes to me. I submit that if the honorable Senator will reflect but a moment he will see that he is disposed not only to do injustice to me, but injustice to the people that I represent.

Mr. HILL. Mr. President, I voted for the resolutions of the Senator from Alabama as a substitute for the resolutions of the Senator from Vermont. I desire to state, however, that if that substitute had been adopted and had been put upon its final passage I should have voted against it. I shall also vote against the resolutions offered by the Senator from Vermont. I have been inclined to vote from the beginning against any and all resolutions proposed, unless it might be a simple resolution instructing the Judiciary Committee to inquire what legislation was necessary upon the subject and to report upon it, though I believe that to be unnecessary.

I shall vote against the original resolutions, I shall vote against the amendments on their final passage, and vote against every resolution asserting principles such as these resolutions do for the purpose of exciting debate and creating division, because there is nothing practical in the question, because there is nothing good in it, and because, after listening to the very remarkable speech of the Senator from Massachusetts, [Mr. HOAR,] I am thoroughly satisfied there has been no purpose from the beginning of this debate to bring about legislation in this matter, but that it is simply an occasion to ventilate opinions and differences for political effect. Of that I am thoroughly satisfied now, and I do not propose to consume the time of the American Senate and of the American people to the damage of the country by these abstract discussions at this late day of the session. I shall therefore vote against the resolutions in every form in which they may be presented.

Mr. VOORHEES. Mr. President, I have not participated in this debate for two reasons: first, because I am suffering too severely from a cold; and secondly because I attach but little importance to the resolutions of the Senator from Vermont or to the discussion upon them. I only rise now for fear the assault or criticism made by the Senator from Massachusetts [Mr. HOAR] upon the constitution of Indiana may be misconstrued if I should remain entirely silent. My view of this whole question is that whenever the constitution of a State, made before the war or since for that matter, contained a provision upon the subject of suffrage discriminating against any one on account of race, color, or previous condition of servitude, the fifteenth amendment to the Constitution of the United States overrides that provision and renders it nugatory and void, even though it may still remain in the constitution of the State. I regard the amendments to the Constitution of the United States as valid parts of that instrument, and, together with the other provisions of the Constitution, they constitute the paramount law of the land. By the fifteenth amendment all discriminations on account of race, color, or previous condition of servitude are forbidden as I have stated, but with this exception the question of suffrage and its regulation remains with the States as heretofore.

I voted for the amendment offered by the Senator from Arkansas [Mr. GARLAND] and he expressed my views far better than I can express them myself. I do not merely think, or conjecture, I know that the fifteenth constitutional amendment was not legally ratified by the Legislature of Indiana; I know that as a historical fact. Consequently, when called upon to vote whether the amendments, including the fifteenth, were legally ratified or not, I could vote but one way. I did not make the issue myself, but when it was made I could pass upon it only in the manner I did. But, sir, there is a ratification that comes by usage, by sanction, by acquiescence, by acceptance on the part of the people and of the States and of the various departments of the Federal Government. That kind of ratification has been given to the amendments of the Constitution brought in question here, and I presume there is not a man in the United States who desires to disturb them. Certainly I do not. I say to the Senator from Massachusetts that at some other time, not to-night, I will perhaps endeavor to entertain him with a comparison between the constitution of Indiana and the constitution of Massachusetts in the privileges, rights, and liberties they extend to the citizens of our respective States.

Mr. HOAR. Will the Senator allow me a moment?

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) Will the Senator from Indiana yield to the Senator from Massachusetts?

Mr. VOORHEES. Certainly.

Mr. HOAR. Mr. President, the Senator from Indiana certainly misunderstood me if he supposed it was my purpose in the least to make any reflection or disparagement upon the constitution of his State. I was endeavoring simply to express my view of the proposition that suffrage was not conferred by the constitutional amendment; and for the sake simply of putting that point, I said here is the constitution of Indiana; it is an old one; the same thing was in that of Connecticut at one time; I cite Connecticut because it is the State of my own ancestors who had something to do with its institutions. But my point was, the State of Indiana says the negro shall not have suffrage, and that is all it says; then comes in the Constitution of the United States and says you shall not discriminate against him. My question was, from what authority does the negro get his suffrage? It was not in the least with the view of intimating that the constitution of Indiana would not compare favorably with any other in the country, but simply as illustrating a legal proposition.

Mr. VOORHEES. I did not understand the criticism of the Senator from Massachusetts to be in a hostile spirit. What I desire to say now, and I am not in a condition to talk at all to-night, is simply that Indiana with that clause in her constitution yields absolutely to the paramount law contained in the constitutional amendment; and that discrimination which she made before the war on account of race and color has been abrogated by the Constitution of the United States. The black man enjoys suffrage, the right to vote, and all other civil rights as completely in Indiana as in any other State; much more so, the Senator from Massachusetts will pardon me for saying, than he can possibly do in the State of Massachusetts. Of the three-quarters of a million of black men who vote in the Southern States there are not fifty thousand who could vote under the constitution of the State of Massachusetts. And why? While not discriminating against them on account of their color, yet there is a clause in the constitution of Massachusetts which requires a man, before he can vote, to be able to read the constitution in the English language and write his name. It is well known that the negro can read it, as a general rule, in no language. It is not their fault, it is their misfortune, the misfortune of their former condition; but Massachusetts, standing, as she assumes always to do, in the front ranks of human progress, has a clause in her constitution that would disfranchise nearly the whole negro race at every voting-precinct in her borders. She also disfranchises those of foreign birth until they can learn a new language. When you see those words "the English language" in her constitution, you at once see against what class of people the clause is aimed. It is provided that the foreigner who goes to Massachusetts to seek citizenship shall stay there long enough before voting not merely to understand something of the institutions of the country, not merely to imbibe a veneration and love for them, but he must be schooled in a new tongue, so that he can read the constitution in the *English* language. And I submit in all kindness to the Senator from Massachusetts that while there is some want of harmony between the constitution of Indiana and events that have taken place growing out of the war, while some of her *ante bellum* provisions do not harmonize with the great changes that have since taken place, that is not a fault on her part. This proscriptive provision, however, in the constitution of Massachusetts does not grow out of national events; it grows out of a spirit inherent in that State, not leveled originally, of course, against the black man but now applicable to him as to all others. It was leveled against the foreigner originally, but it now proscribes the negro as well as the foreigner; and, while the Senator from Massachusetts in the true spirit of old apostolic propagandism gives us the benefit of his wisdom, assumes the functions of a missionary in his teachings to other more modest States, I would commend him before going further in his work to liberalize the institutions of the State of Massachusetts. I commend him to begin at home.

I did not intend to say this much, but I could hardly say less.

The PRESIDING OFFICER. The question is on the resolutions of the Senator from Vermont, upon which the yeas and nays have already been ordered.

Mr. EDMUNDS. Then I ask that the resolutions be divided, so that we take the question separately on each resolution.

The PRESIDING OFFICER. The Secretary will report the first resolution.

Mr. WADLEIGH. I want to say but a few words. My friend the Senator from Alabama [Mr. MORGAN] the other day spoke of the religious test of New Hampshire. When the constitution of the State of New Hampshire was first framed in 1791 it prohibited not voting but the holding of office by any person who was not of the Protestant religion. That provision remained unchanged until the year 1877, when, through a constitutional convention containing a republican majority, the religious test was abolished. In 1850, under democratic rule, a constitutional convention was held and that question was submitted to the people, and the State, then strongly democratic, refused to strike that provision out of the constitution of New Hampshire. There is no religious test now in her constitution.

One more thing. My friend the Senator from Maryland [Mr. WHYTE] in his speech to-day spoke of the action of the State of New

Hampshire in reference to the fourth section of the first article of the Constitution. Congress provided that Representatives should be elected, not by the State at large, but by districts. The State of New Hampshire, with the State of Mississippi and two or three other Southern States, refused to comply with that law of Congress, and New Hampshire, in defiance of that law, elected her Representatives to Congress by the State at large, until the year 1846. That law was denounced as unconstitutional. In 1846 a political revolution occurred and the Legislature districted the State in compliance with the law of the United States. In 1847 the State again went into the hands of the democracy, and they did not repeal the law which had been passed by an opposition Legislature in the year 1846, but have ever since complied with the law of Congress.

Our democratic friends here, and particularly my friend the Senator from Delaware, [Mr. BAYARD,] speak of the necessity of peace and of harmony, and they say that this question disturbs the public mind. Now, Mr. President, what is the disturbance that rests upon the public mind and stirs it to-day? It is that in a large portion of this country there is a public sentiment which prevents citizens from exercising their constitutional rights. That is what troubles the public mind of the North, the fear that not to-day only but in the indefinite future a certain class of citizens who under the Constitution are entitled to equal rights with every other class are to be deprived by violence of those rights.

Mr. President, how can that fear in the public mind be set at rest? It may be perhaps by some declaration on the part of the leaders of that party which profits by such outrages if they are committed that the United States will guarantee, so far as legislation can do it, to the citizens of those States the rights to which they are entitled under the Constitution of the United States as amended. If our democratic friends in their senatorial dignity assert it to be the purpose of the democratic party that all attempts to deprive those citizens of their rights should be prohibited and punished, if they would publicly resolve that they are in favor of such prohibition and punishment, that would go far to produce that tranquillity in the public mind of the North which we all profess to desire. But our friends say, my friend from Georgia [Mr. HILL] says, "Do not I say on this floor that my intention is not, and that the democratic party do not intend, to deprive any citizen of his rights?" Certainly he does; but are political declarations made by individuals considered as binding by parties in this country? Why, sir, in 1847 the democratic Legislature of the State of New Hampshire declared "that in all the Territories of the United States slavery should be forever prohibited." That pledge was not kept, it was abandoned; it was made over and over again and abandoned. Have we forgotten the declarations made by President Pierce, of my own State, that nothing should be allowed to disturb that tranquillity which had been given to the country by the compromise measures of 1850? Was not that solemn pledge broken at the first suspicion of a political necessity for it? Who does not remember the declarations of the democratic convention at Cincinnati in 1856, which guaranteed popular sovereignty or squatter sovereignty to the people of the Territories in reference to the admission of slavery therein? Who does not remember that all over the Northern States in the campaign of 1856 it was argued that the people were to be allowed to say whether they would have slavery or not? Could there be anything said by individuals on this floor more binding upon the democratic party than the resolutions of that convention?

Yet their pledges were broken; the party, to use a common phrase, "went back on them." Who does not remember the resolutions of the democratic national conventions of 1872 and of 1876 in favor of resumption—resumption at the speediest possible moment? Have those resolutions bound the statesmen of that party in Congress? Not at all.

Mr. BAYARD. Does the Senator mean to say that?

Mr. WADLEIGH. I do not say it in reference to my honorable friend from Delaware, but I do say it with reference to many others. Those declarations of the democratic party solemnly made in convention do not bind all nor even a majority of its leaders; and the people of the North, in view of the history of the past, cannot regard the speech of any statesman, however honorable or influential, as a sufficient guarantee that the democratic party when it gets into power and holds the scepter, which is now almost within its grasp, will not wink at the outrages upon equal rights by which, as I believe, it has acquired the control of the South. If our democratic friends wish to tranquilize the public mind, let them vote for the resolutions of the honorable Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont has asked for a division of the question, so that the vote shall be taken on the first resolution. It will now be reported by the Secretary.

The Secretary read as follows:

Resolved, as the judgment of the Senate, That the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States have been legally ratified, and are as valid and of the same paramount authority as any other part of the Constitution; that the people of each State have a common interest in the enforcement of the whole Constitution in every State in the Union, and that it is alike the right and duty of Congress to enforce said amendments and to protect every citizen in the exercise of all the rights thereby secured by laws of the general character already passed for that purpose, and by further appropriate legislation, so far as such enforcement and protection are not secured by existing laws; and that it is the duty of the executive department of the Government faithfully and with diligence to carry all such laws into impartial execution and of Congress to appropriate all moneys needful to that end.

The Secretary proceeded to call the roll.

Mr. BLAINE, (when his name was called.) I desire to say that I am paired on all political questions with the Senator from Pennsylvania, [Mr. WALLACE.] If he were present, I should vote "yea;" I presume he would vote "nay."

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Nebraska [Mr. SAUNDERS] upon all political questions. If he were present, I should vote "nay."

Mr. TELLER, (when Mr. CHAFFEE'S name was called.) My colleague, [Mr. CHAFFEE] is paired with the Senator from Louisiana, [Mr. EUSTIS.] My colleague, if present, would vote "yea."

Mr. EATON, (when Mr. DAWES'S name was called.) I ought to have said when my colleague's [Mr. BARNUM'S] name was called that he is paired with the Senator from Massachusetts [Mr. DAWES] on this question. If my colleague [Mr. BARNUM] were here, he would vote "nay;" and I presume the Senator from Massachusetts [Mr. DAWES] would vote "yea."

Mr. TELLER. I desire to say that the Senator from New York [Mr. CONKLING] is paired with the Senator from Indiana, [Mr. MCDONALD.]

Mr. DENNIS, (when his name was called.) I am paired with the Senator from South Carolina, [Mr. PATTERSON.] I presume he would vote "yea;" I should vote "nay."

Mr. JONES, of Florida, (when his name was called.) I am paired with the Senator from Michigan, [Mr. CHRISTIANCY.] If he were here, I should vote "nay."

Mr. MCPHERSON, (when his name was called.) Upon this question I am paired with the Senator from Arkansas, [Mr. DORSEY.] Were he here, I should vote "nay."

Mr. EDMUNDS, (when Mr. MATTHEWS'S name was called.) The Senator from Ohio [Mr. MATTHEWS] is paired with his colleague, [Mr. THURMAN.] Mr. MATTHEWS would vote "yea" and Mr. THURMAN would vote "nay."

Mr. VOORHEES. I meant, when my colleague's [Mr. MCDONALD'S] name was called, to announce that he is paired with the Senator from New York, [Mr. CONKLING.] If here, my colleague would vote "nay."

Mr. EATON, (when Mr. RANSOM'S name was called.) The Senator from North Carolina [Mr. RANSOM] is paired with the Senator from Nevada, [Mr. JONES.] If Mr. RANSOM were here, he would vote "nay."

Mr. HEREFORD, (when Mr. SAULSBURY'S name was called.) The Senator from Delaware [Mr. SAULSBURY] is paired with the Senator from Nevada, [Mr. SHARON.] If Mr. SAULSBURY were here, he would vote "nay."

Mr. WADLEIGH, (when his name was called.) I am paired on this question with the Senator from Maryland, [Mr. WHYTE.] If he were present, I should vote "yea."

Mr. MAXEY, (when Mr. WITHERS'S name was called.) I am requested by the Senator from Virginia [Mr. WITHERS] to state that he and the Senator from Florida [Mr. CONOVER] are paired.

The roll-call was concluded.

Mr. KIRKWOOD. I wish to say that my colleague, [Mr. ALLISON,] upon all questions arising upon these resolutions, if present, would vote "yea." He is paired with the Senator from Kentucky, [Mr. MCCREERY,] who I presume would vote in the negative if he were here.

The result was announced—yeas 23, nays 16; as follows:

YEAS—23.

Anthony,	Edmunds,	Kirkwood,	Plumb,
Booth,	Ferry,	McMillan,	Rollins,
Bruce,	Hamlin,	Mitchell,	Spencer,
Burnside,	Hoar,	Morrill,	Teller,
Cameron of Pa.,	Howe,	Oglesby,	Windom.
Cameron of Wis.,	Kellogg,	Paddock,	

NAYS—16.

Bailey,	Coke,	Gordon,	Kernan,
Bayard,	Davis of West Va.,	Harris,	Lamar,
Beck,	Eaton,	Hereford,	Morgan,
Cockrell,	Garland,	Hill,	Voorhees.

ABSENT—37.

Allison,	Dennis,	McPherson,	Sharon,
Barnum,	Dorsey,	Matthews,	Shields,
Blaine,	Eustis,	Maxey,	Thurman,
Butler,	Grover,	Merrimon,	Wadleigh,
Chaffee,	Ingalls,	Patterson,	Wallace,
Christiancy,	Johnston,	Randolph,	Whyte,
Conkling,	Jones of Florida,	Ransom,	Withers.
Conover,	Jones of Nevada,	Sargent,	
Davis of Illinois,	McCreery,	Saulsbury,	
Dawes,	McDonald,	Saunders,	

So the first resolution was agreed to.

The PRESIDING OFFICER. The question recurs on the second resolution of the Senator from Vermont, which will be read for the information of the Senate.

The Secretary read as follows:

Resolved, further, That it is the duty of Congress to provide by law for the full and impartial protection of all citizens of the United States, legally qualified, in the right to vote for Representatives in Congress, and to this end the Committee on the Judiciary be, and it hereby is, instructed to prepare and report, as soon as may be, a bill for the protection of such rights, and the punishment of infractions thereof.

The Secretary proceeded to call the roll.

Mr. BLAINE, (when his name was called.) I am paired, as I stated,

with the Senator from Pennsylvania [Mr. WALLACE] on all political questions.

Mr. BUTLER, (when his name was called.) I am paired upon this question with the Senator from Nebraska, [Mr. SAUNDERS.] If he were here, I should vote "nay."

Mr. TELLER, (when Mr. CHAFFEE's name was called.) My colleague [Mr. CHAFFEE] is paired on this question with the Senator from Louisiana, [Mr. EUSTIS.]

Mr. TELLER, (when Mr. CONKLING's name was called.) The Senator from New York [Mr. CONKLING] is paired with the Senator from Indiana, [Mr. MCDONALD.]

Mr. DENNIS, (when his name was called.) I am paired with the Senator from South Carolina [Mr. PATTERSON] on this question. I should vote "nay" if he were here.

Mr. JONES, of Florida, (when his name was called.) I am paired with the Senator from Michigan, [Mr. CHRISTIANCY.] If he were here, I should vote in the negative.

Mr. VOORHEES, (when Mr. MCDONALD's name was called.] My colleague [Mr. MCDONALD] is paired on this question with the Senator from New York, [Mr. CONKLING.] If he were here, my colleague would vote "nay."

Mr. MCPHERSON, (when his name was called.) Upon this question I am paired with the Senator from Arkansas, [Mr. DORSEY.] Were he here, I should vote "nay."

Mr. WADLEIGH, (when his name was called.) I am paired on this question with the Senator from Maryland, [Mr. WHYTE.]

Mr. MAXEY, (when Mr. WITHERS's name was called.) The Senator from Virginia [Mr. WITHERS] is paired with the Senator from Florida, [Mr. CONOVER.] The Senator from Virginia would vote "no."

The roll-call was concluded.

Mr. HEREFORD. The Senator from Delaware [Mr. SAULSBURY] is paired with the Senator from Nevada, [Mr. SHARON.] Mr. SAULSBURY, if here, would vote "no."

The result was announced—yeas 22, nays 17; as follows:

YEAS—22.

Anthony,	Ferry,	McMillan,	Rollins,
Bruce,	Hamlin,	Mitchell,	Spencer,
Burnside,	Hoar,	Morrill,	Teller,
Cameron of Pa.,	Howe,	Oglesby,	Windom.
Cameron of Wis.,	Kellogg,	Paddock,	
Edmunds,	Kirkwood,	Plumb,	

NAYS—17.

Bailey,	Davis of W. Va.,	Hereford,	Morgan,
Bayard,	Eaton,	Hill,	Voorhees.
Beck,	Garland,	Kernan,	
Cockrell,	Gordon,	Lamar,	
Coke,	Harris,	Maxey,	

ABSENT—37.

Allison,	Dawes,	McDonald,	Sharon,
Barnum,	Dennis,	McPherson,	Shields,
Blaine,	Dorsey,	Matthews,	Thurman,
Booth,	Eustis,	Merrimon,	Wadleigh,
Butler,	Grover,	Patterson,	Wallace,
Chaffee,	Ingalls,	Randolph,	Whyte,
Christiancy,	Johnston,	Ransom,	Withers.
Conkling,	Jones of Florida,	Sargent,	
Conover,	Jones of Nevada,	Saulsbury,	
Davis of Illinois,	McCreery,	Saunders,	

So the second resolution was agreed to.

WAR CLAIMS.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of House resolution No. 201 proposing an amendment to the Constitution of the United States.

The PRESIDING OFFICER. The question is on the motion of the Senator from Vermont to proceed to the consideration of the joint resolution (H. R. No. 201) proposing an amendment to the Constitution prohibiting the payment of claims of disloyal persons for property injured or destroyed in the late war of the rebellion.

The motion was agreed to.

The PRESIDING OFFICER. The joint resolution is before the Senate for consideration.

Mr. GARLAND. I move that when the Senate adjourns this evening it adjourn to meet on Friday next at twelve o'clock.

Mr. EDMUNDS. Pending that I move that the Senate do now adjourn.

The PRESIDING OFFICER. The Senator from Arkansas moves that when the Senate adjourns to-day it be to meet on Friday. The Senator from Vermont pending that moves that the Senate do now adjourn. The question is on the motion of the Senator from Vermont.

The motion was agreed to; and (at eleven o'clock p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 5, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. PRUDEN, one of his secretaries, announced that he had approved and signed the following bills and joint resolution:

A bill (H. R. No. 5315) to amend the Revised Statutes of the United States relating to the records and files of the district and circuit courts of the United States lost or destroyed;

An act (H. R. No. 5052) to amend section 3835 of the Revised Statutes, relating to deficiency in postmasters' accounts; and

A joint resolution (H. R. No. 162) for the relief of Bushrod B. Taylor and other naval officers.

ORDER OF BUSINESS.

The SPEAKER. The regular order this morning is the unfinished business coming over from last night's session, being the bill (H. R. No. 4318) to provide for the organization of the Mississippi River improvement commission, and for the correction, permanent location and deepening of the channel and the improvement of the navigation of said Mississippi River, and the protection of its alluvial lands. Under the operation of the main question, which was ordered on the bill last night, the amendments which were offered in the Committee of the Whole on the state of the Union are understood to be pending in the House, and the Chair thinks that the most intelligent mode of proceeding will be to read the bill by sections and have the vote taken on the amendments to the sections of the bill in their order.

Mr. ELLIS. I ask leave, with the consent of the House, to withdraw the amendment I offered in the nature of a substitute for the whole bill.

There was no objection, and the amendment was withdrawn.

Mr. GIBSON. I make a similar request. I ask leave to withdraw the amendment in the nature of a substitute offered by me for the whole bill.

There was no objection, and the amendment was withdrawn.

The first section of the bill was read, as follows:

That there is hereby created a commission, to be called "the Mississippi River improvement commission," to be composed of five persons.

The SPEAKER. No amendment has been offered to this section. The second will be read.

The Clerk read section 2, as follows:

SEC. 2. The President of the United States shall, by and with the advice and consent of the Senate, appoint five commissioners, and shall in like manner fill any vacancy or vacancies which may occur in said commission. Said commission shall be composed of three officers of the Army Engineer Corps, one of whom shall be designated by the President of the United States as president of the commission, and two persons from civil life, who, by their residence and experience, shall be familiar with the navigation of said river, and with the effects of the overflow of said river upon the alluvial lands of the Mississippi Delta. And for the services and duties hereinafter prescribed, the said Army officers shall receive no other or additional pay or compensation than is now allowed them by law, and the other two commissioners shall receive as pay and compensation each the sum of $3,000 per annum. Said commissioners appointed as above shall remain members of said board during good behavior, subject to removal by the President of the United States for cause.

Mr. GARFIELD. Is this a permanent board, that is to last forever?

Mr. ROBERTSON. No, sir; there is an amendment that will meet the gentleman's objection, and I hope it will be adopted.

The SPEAKER. The Clerk will report the first amendment which has been offered to this section by the gentleman from Illinois, [Mr. SPARKS.]

The Clerk read as follows:

Strike out, beginning with the word "and" in line 9, to and including the word "delta" in line 11, namely, these words:

And with the effect of the overflow of said river upon the alluvial lands of the Mississippi Delta.

Mr. ROBINSON, of Massachusetts. I inquire of the Chair if any suggestions at this time would be in order?

The SPEAKER. The Chair thinks not. The Chair, however, in the absence of objections, will hear the gentleman. The Chair hears no objection.

Mr. GARFIELD. It seems to me there ought to be an opportunity afforded for a little explanation.

Mr. ROBINSON, of Massachusetts. This is one of a series of amendments offered by the gentleman from Illinois [Mr. SPARKS] last evening; and if this amendment prevails it may be presumed all the others of the same character offered by that gentleman will be adopted, and, if so, the whole character of the bill will be changed in a material part. I desire that the House shall understand that feature of the bill before voting on the amendments.

The committee have proposed a bill which commits to no theory but leaves investigation open. They have found, as I had an opportunity to state on a former occasion, that the two questions of the improvement of the navigation of the river and of the protection of the lands were in a greater or less degree connected. Therefore, after long deliberation, they presented a bill which authorizes a commission to investigate both subjects, and to report upon a general system applicable to the matter.

The committee believe it would not be wise to strike out the words indicated in the amendment of the gentleman from Illinois; because if that were done the House will have indicated very clearly that they will not have the commission entertain any consideration that shall touch the question of the alluvial lands of the Mississippi River