as my friend stated, (in which case the conferees would have not a word to say for themselves, but would be only the bearers of a message half way, as your Secretary is the bearer of a message the whole way when we send him to the House of Representatives,) but conferees for the purpose of discussion, bound by certain rules; that is to say, bound by the will of the body that appointed them to go. That was the motion, and that was the decision. The Senator from Maine said that he considered such a motion to be in order because he thought it resulted in a simple conference. Enough of that now. Then let us go to the next precedent.

My honorable friend says that the motion of the late Senator from Illinois was made by unanimous consent, and agreed to by unanimous consent. Why, Mr. President, this affects the rights of the other House; nobody ever put it upon our own rights as among ourselves, because nobody yet ever questioned that, as it respected ourselves, we could instruct any committee to do anything that we commanded them to do; but it was in respect to the rights of the other body, and therefore unanimous consent, in my opinion, could not have come in. The Senate, by unanimous consent, as my friend truly says, that is to say, without dissent, and on the motion of the Senator from Illinois, who has now unhappily departed from us to private life, thought they could instruct our conferees in a free conference with the House to agree to pay certain bounties to the soldiers—that was the way it was put; and yet he appealed from the decision of the Chair a year ago, on the ground that we could not lawfully, with respect to the other House, instruct our agents to insist upon not increasing our own salaries for services already performed.

I think my friend from New York, in the candor that I know characterizes him, will see that there must be some force in that observation. And then when we go to the other House we find there a decision of the late Vice-President of the United States, who, on the occasion when this point was made last year, had just vacated the chair when the ruling by its temporary occupant was made, and whose opinion was understood by that occupant, I think I am safe in saying, as instructing him, that the law was clear, and that the motion was in order. But that has nothing to do with the present case. The Senator from Illinois asked the Senate, and the Senate sustained him in it, to say that upon parliamentary law we could not instruct our own agents to insist that the provision increasing our own salaries should be struck out of that bill.

I say, then, yielding entirely to the force of what my friend from New York has said as a technical argument as to the change of circumstances, that when you come to the meat of the thing, precisely the same question in all the cases has been determined, first by the House of Representatives, stated by its Speaker and universally acquiesced in when the point was raised, in terms that the House had the same power to instruct its committee of conference that it had to instruct any other committee; next by the Vice-President, now Senator from Maine, stating, without using the same terms, that a motion which was to instruct that committee was in order, although he gave a different reason for it, and one which has much force, but does not quiet commend itself to my own mind; and next the Senate, by unanimous consent, on the motion of the Senator from Illinois, instructed a free conference in the very sense of my friend from New York, as he will find by looking at the record of the House of Representatives, to insist upon a particular provision being put in or taken out; and after all this, I do say that we were acting under a misapprehension when we voted last year—a misapprehension of the history of the subject. I do not say it was owing to a want of judgment; but I say we had not in remembrance, at that time, the fact that the Senate had on two occasions and the House had upon one, then recent, done what to me appears to be the very same thing in substance and effect.

Now, Mr. President, unless my friend from New York wishes to make an observation, I move, in pursuance of my promise, not for the purpose of an adjournment, but to attend to public interests which are required to be considered in executive session, that the Senate proceed to the consideration of executive business.

Mr. LOGAN. Will the Senator withdraw the motion for a moment?

Mr. EDMUNDS. I will if my friend will renew it.

Mr. LOGAN. As I said, I do not rise for the purpose of continuing the discussion, but merely to call the attention of the Senate to one point.

In the debate yesterday I stated that the bill presented by the committee, using, perhaps, a strong term, was a deception, for the reason that it professed to repeal the law of the last session as far as we could go, and did not do it. I said that I did not make that remark in any offensive sense. I was corrected by the Senator from Ohio, [Mr. SHERMAN,] he believing that I was mistaken, that it did include all. He referred me to the third section of the appropriation bill of last year, which applied to the heads of Bureaus and other employés in the Departments. My friend the Senator from Maine, [Mr. MORRILL,] in his seat assented to the proposition, saying "except the Chief Justice of the Supreme Court;" and that seemed to me to be the impression left on the Senate, that this bill did repeal all of the salary bill of last year saving the clauses affecting the President of the United States, and the Chief Justice of the Supreme Court and the other judges of that court. Now, in order to show that I was correct, and to correct the impression, not intentionally but unintentionally made on the Senate, that this bill did go as far as the other one did, I will read the amendment proposed by the committee of the Senate:

That so much of the act of March 3, 1873, entitled "An act making appropriations for legislative, executive, and judicial expenses of the Government, for the year ending June 30, 1874," as provides for the increase of the compensation of members of Congress and the several officers and employés of either House of Congress, or both, be, and the same is hereby, repealed; and the salaries and compensation of all said persons shall be as fixed by the laws in force at the time of the passage of said act.

No man will dispute that that applies solely to Congress and their subordinates. That is so, is it not?

Mr. WRIGHT. Yes, sir.

Mr. LOGAN. The next position is—

That the compensation of the several heads of department shall be each $8,000 per annum.

That is the whole amendment. Now, the law that we passed last year provided for the increase of the compensation of members of Congress, of heads of Departments, of the Chief Justice and judges of the Supreme Court, of the President of the United States; and, further, "each assistant secretary of the Treasury, State, and Interior Departments shall receive a compensation, to be paid monthly, of $6,000 per annum." I said yesterday that this bill did not go that far, and that I desired to go the whole length of repeal, as far as we could constitutionally; and the impression was made on the Senate that the bill did go that far. Now, I call the attention of the Senate to the law that passed last session, and they will find that the assistant secretaries of the Departments were included in that bill, and that the third section referred to by the Senator from Ohio, which had been agreed to by Congress prior to that time, includes only the heads of the different Bureaus and the Commissioner of Agriculture.

My object in making the statement I did was to have this bill go as far as the law then went—to the extent that we could constitutionally carry the repeal. That kind of a bill I am willing to vote for, and that is what I think the people demand. I merely rose to make this correction.

Mr. CAMERON. I move that the Senate go into executive session.

Mr. WRIGHT. Let me say one word, with the permission of the Senator from Pennsylvania. I trust if the public interest is such that we should go into executive session now, as has been suggested by the Senator from Pennsylvania, that, while of course I cannot bind any one, it will be with a distinct understanding that we stand by this bill to-night. I call upon the friends of the bill; I think the sooner we pass this bill or dispose of the question the better for us and for the country.

EXECUTIVE SESSION.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Pennsylvania.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty-four minutes spent in executive session the doors were re-opened; and (at four o'clock and seven minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 6, 1874.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

The Journal of yesterday was read and approved.

CHANGE OF REFERENCE.

Mr. DAWES. I desire unanimous consent to change the reference of a bill which was yesterday referred, doubtless through inadvertency, to the Committee on the Judiciary. It was a bill to regulate the service and collection of customs and to repeal moieties, &c. It should have been referred to the Committee on Ways and Means. I ask that the change of reference be made.

The SPEAKER. If there be no objection the change of reference will be made.

There was no objection; and the change of reference was made.

TRANSPORTATION.

Mr. MCCRARY, by unanimous consent, from the Committee on Railways and Canals, reported a bill (H. R. No. 1012) to regulate commerce by railroads among the several States; which was read a first and second time, ordered to be printed, and recommitted to the committee with the understanding that it should not be brought back by a motion to reconsider.

DESTITUTION IN THE SOUTH.

Mr. SYPHER. I ask unanimous consent to offer a resolution which meets the approbation of the President and has his approval. I ask that it be read by the Clerk.

The Clerk read as follows:

Whereas it is known by well-authenticated reports, specifically brought to the capital by Rev. Bishop Wilmer, of Louisiana, that in certain localities in the South the people are destitute and in a condition of starvation, owing to the failure of the crops: Therefore,

Resolved, That the President of the United States is hereby authorized to direct the Secretary of War to issue army rations in such quantities as may be required to alleviate the immediate sufferings of the inhabitants of the destitute communities.

Mr. HOLMAN. Is this a joint resolution?

The SPEAKER. It is a joint resolution, and contemplates action.

Mr. WILLARD, of Vermont. I object to it.

Mr. MAYNARD. This resolution should hardly be passed without some authentic statement upon which to base it. I suggest that it be referred to some committee with leave to report it back at any time.

Mr. SYPHER. I hope the gentleman from Tennessee [Mr. MAYNARD] will not object to this resolution, for when the people of Memphis were suffering——

The SPEAKER. The gentleman from Vermont [Mr. WILLARD] objects to its being adopted at this time, and the gentleman from Tennessee [Mr. MAYNARD] suggests its reference to a committee.

Mr. WILLARD, of Vermont. I move it be referred to the Committee on Education and Labor.

Mr. SYPHER. With leave to report it at any time.

The SPEAKER. That requires unanimous consent.

No objection was made; and the joint resolution (H. R. No. 31) was accordingly received, read a first and second time, and referred to the Committee on Education and Labor, with leave to the committee to report at any time.

CIVIL RIGHTS.

Mr. BOWEN. I send to the Clerk's desk, and ask to have read, some joint resolutions of the State of Virginia.

The joint resolutions were read, as follows:

Joint resolutions reaffirming the third resolution of the conservative platform of 1873, and protesting against the passage of the civil-rights bill now pending in the Congress of the United States.

Resolved by the General Assembly of Virginia—

1. That the sentiments embodied in the third resolution of the platform of the conservative party of Virginia in the late election, ratified as they have been by an unprecedented popular majority, and commended to the favorable consideration of the General Assembly by the governor of Virginia in his inaugural message, be, and the same are hereby, reaffirmed; and this General Assembly doth declare that there is no purpose upon their part, or upon the part of the people they represent, to cherish capricious hostility to the present administration of the Federal Government, but that they will judge it impartially by its official acts, and will cordially co-operate in every measure of the administration which may be beneficent in its design, and calculated to promote the welfare of the people and cultivate sentiments of good-will between the different sections of the Union.

2. That this General Assembly recognize the fourteenth amendment to the Constitution of the United States as a part of that instrument, and desire, in good faith, to abide by its provisions as expounded by the Supreme Court of the United States. That august tribunal recently held, after the most mature consideration, that it is only the privileges and immunities of the citizen of the United States that are placed by this clause under the protection of the Constitution, and that the privileges and immunities of the citizen of the State, "whatever they may be, are not intended to have any additional protection by this paragraph of the amendment," and that the "entire domain of the privileges and immunities of citizens of the State, as above defined, lay within the constitutional and legislative power of the States, and without that of the Federal Government."

3. That this amendment, thus construed by the highest judicial tribunal of the country, is the supreme law of the land; a law for rulers and people, and should be obeyed and respected by all the co-ordinate departments of the Government.

4. That the bill now before Congress, known as the civil-rights bill, is in violation of this amendment as interpreted by the Supreme Court of the United States, is an infringement on the constitutional and legislative powers of the States, is sectional in its operation, and injurious alike to the white and colored population of the Southern States, "and that its enforced application in these States will prove destructive of their systems of education, arrest the enlightenment of the colored population in whose improvement the people of Virginia feel a lively interest, produce continual irritation between the races, counteract the pacification and development now happily progressing, repel immigration, greatly augment emigration, reopen wounds now almost healed, engender new political asperities, and paralyze the power and influence of the State government for duly controlling and promoting domestic interests and preserving internal harmony.

5. That the people of Virginia, through their representatives, enter their earnest and solemn protest against this bill, and instruct their Senators and request their Representatives in the Congress of the United States firmly, but respectfully, to oppose its passage, not only for the reasons herein expressed, but as a measure calculated to arrest the growing sentiments of concord and harmony between the Northern and Southern States of the Union.

6. That the Governor cause a copy of these resolutions to be forwarded to each of our Senators and Representatives in the Congress of the United States, with the request that they present the same in their respective bodies.

Agreed to by the Senate January 5, 1874.

SHELTON C. DAVIS, *C. S.*

Agreed to by the House of Delegates January, 5, 1874.

J. BELL BIGGER, *C. H. D.*

Mr. BOWEN. I move that these resolutions be printed, and referred to the Committee on the Judiciary.

The motion was agreed to.

REGENTS OF THE SMITHSONIAN INSTITUTION.

Mr. MAYNARD, by unanimous consent, introduced a joint resolution (H. R. No. 32) in relation to the appointment of regents of the Smithsonian Institution; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

ELECTION CONTEST—BETHUNE *vs.* HARRIS.

Mr. LAMAR. I am instructed unanimously by the Committee on Elections to report the following resolution:

Resolved, That the Committee on Elections be discharged from the further consideration of the case of Marion Bethune, contesting the right of Henry R. Harris to a seat on the floor of this House as a Representative from the fourth congressional district of the State of Georgia.

The resolution was adopted.

Mr. LAMAR moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CIVIL RIGHTS.

The SPEAKER. The House resumes the consideration of the bill (H. R. No. 796) to protect all citizens in their civil and legal rights, upon which the gentleman from Kentucky [Mr. DURHAM] is entitled to the floor.

Mr. DURHAM. I yield to the gentleman from Alabama, [Mr. WHITE,] who desires to have an amendment printed.

Mr. WHITE. I desire to give notice of an amendment which I propose to offer at the proper time to the civil-rights bill, and I ask that it be printed.

No objection was made, and it was ordered accordingly.

Mr. BECK. I ask my colleague to yield to me to offer an amendment.

Mr. DURHAM. I will do so.

Mr. BECK. I desire to offer an amendment to the civil-rights bill, and to have it printed. It is to add to section 1 the following:

Provided, That nothing herein contained shall be so construed as to require hotel-keepers to put whites and blacks into the same rooms, or beds or feed them at the same table, nor to require that whites and blacks shall be put into the same rooms or classes at school, or the same boxes or seats at theaters, or the same berths on steamboats or other vessels, or the same lots in cemeteries.

The amendment was ordered to be printed.

Mr. RANSIER. I ask the gentleman from Kentucky to yield to me to offer an amendment.

Mr. DURHAM. I will do so, if it does not come out of my time.

The SPEAKER. It will come out of the gentleman's time. The Chair will recognize the gentleman from South Carolina, [Mr. RANSIER,] after the gentleman from Kentucky has concluded.

Mr. DURHAM. Mr. Speaker, in the twenty minutes allotted to us in this debate it is impossible to fully discuss the provisions of this bill. Nearly the whole ground has been gone over by the gentlemen from Virginia, Georgia, and Texas, [Messrs. HARRIS, STEPHENS, and MILLS;] but the importance of this bill, and the evil effects its passage will produce to the district and State which I represent, is my only apology for now asking the attention of the House. The people of Kentucky have submitted quietly and without resistance to all the various amendments to the Constitution of the United States and the laws passed by Congress in relation to the institution of slavery, and by which they have been deprived of millions of property without compensation. Slaves were recognized by the Constitution as property, and under that instrument you could pass no law impairing the right of the holder of that kind of property without a just compensation. A constitutional amendment was necessary to emancipate the slave; and the thirteenth amendment was adopted. But after this amendment he was not a citizen; and to make him such the fourteenth amendment was adopted. This being done, he could not vote; and to enfranchise him the fifteenth amendment was adopted. So that it has required three amendments to the Constitution to enfranchise him.

You could not reach this result by simple congressional enactments; and, although the bill now under consideration has been reported by the Law Committee of this House, I do not believe that it is constitutional. I do not believe that Congress has any right, under any or either of these amendments, to pass any such law. Congress had as much right to pass a law enfranchising the freedman before the adoption of the fifteenth amendment as it has to pass this bill; and yet, as before stated, no attempt was made to enfranchise him until after that amendment, because that amendment was necessary to accomplish that result. I believe the matters and things embraced in this bill are alone the subject of State legislation. I do not believe they are embraced in any of the powers delegated to the General Government.

The passage of this bill will override that provision of the Constitution, which declares—

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

It interferes with State-rights and State sovereignty; and against this system of legislation I enter my solemn protest. We have no more right or power to say who shall enter a theater or a hotel and be accommodated therein than to say who shall enter a man's private house or enter into any social amusement to pass away an evening's hour. We have no more right to say that a particular class of individuals shall have access to our public schools, when those individuals have not contributed to the support of those schools, than we have to say that they shall have access to private schools. These are matters purely of local legislation or of private contract.

I know, Mr. Speaker, it is sometimes hard to determine what are the powers of the General Government; how far they extend, and where the jurisdiction and power of the States begin; and we sometimes overlook the fact that there is a citizenship of the State as well as a citizenship of the United States. Now, my idea is, if the citizen of the State should be protected in his rights and immunities, (I mean those which are fundamental,) he has no right to complain, and Congress has no right to interfere in the matter unless some of his political rights secured by the Constitution are abridged or interfered with. I think this position is sustained by several decisions of the Supreme Court of the United States. That court, in the Slaughter-house cases, lately decided and reported in 16 Wallace, on pages 75 and 76, speaking of these privileges and immunities and the clause of the Constitution securing them, says:

Fortunately we are not without judicial construction of this clause of the Constitution. The first and the leading case on the subject is that of Corfield *vs.* Corgill, decided by Mr. Justice Washington in the circuit court for the district of Pennsylvania in 1823. (4 Washington's Circuit Court, 371.)

"The inquiry," he says, "is, what are the privileges and immunities of citizens of the several States? We feel no hesitation in confining these expressions to those privileges and immunities which are fundamental, which belong of right to the citizens of all free governments, and which have at all times been enjoyed by citizens of the several States which compose this Union from the time of their becoming free, independent, and sovereign. What these fundamental principles are it would be more tedious than difficult to enumerate. They may all, however, be comprehended under the following general heads: protection by the Government, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety, subject nevertheless to such restraints as the Government may prescribe for the general good of the whole."

With this definition of the rights and immunities of citizens, can it be claimed that there is any citizen or class of citizens in Kentucky who are not protected by the State with the "right to acquire and possess property of every kind, and to pursue and obtain happiness and safety?"

The court, in these same cases, in the same book, on page 74, goes on to speak of the citizenship of the State and the citizenship of the United States thus:

It is quite clear, then, that there is a citizenship of the United States and a citizenship of a State, which are distinct from each other, and which depend upon different characteristics or circumstances in the individual.

We think this distinction and its explicit recognition in this amendment of great weight in this argument, because the next paragraph of this same section, which is the one mainly relied on by the plaintiffs in error, speaks only of privileges and immunities of citizens of the United States, and does not speak of those of citizens of the several States. The argument, however, in favor of the plaintiffs rests wholly on the assumption that the citizenship is the same, and the privileges and immunities guaranteed by the clause are the same.

The language is "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

It is a little remarkable, if this clause was intended as a protection to the citizen of a State against the legislative power of his own State, that the word citizen of the State should be left out when it is so carefully used, and used in contradistinction to citizens of the United States, in the very sentence which precedes it. It is too clear for argument that the change in phraseology was adopted understandingly and with a purpose.

It cannot be claimed by the friends of this bill that they have the right to pass the same to define what are the implied rights guaranteed under the Constitution. In the case of Crandall *vs.* Nevada, 6 Wallace, page 36, the court defines what those implied rights are, thus:

It is said to be the right of the citizen of this great country, protected by implied guarantees of its Constitution, to come to the seat of Government to assert any claim he may have with it; to seek its protection; to share its offices; to engage in administering its functions. He has the right of free access to its seaports through which all operations of foreign commerce are conducted; to the sub-treasuries, land-offices, and courts of justice in the several States.

I assert here that no citizen of the district I represent is deprived of any of these privileges. I do not believe it was the intention of those who framed the Constitution and the amendments to give Congress power over civil rights in the States, or to deprive the States of those rights. In these Slaughter-house cases, on pages 77, 78, the court, to my mind, settles this whole controversy thus:

It would be the vainest show of learning to attempt to prove by citations of authority, that up to the adoption of the recent amendments, no claim or pretense was set up that those rights depended on the Federal Government for their existence or protection, beyond the very few express limitations which the Federal Constitution imposed upon the States—such, for instance, as the prohibition against *ex post facto* laws, bills of attainder, and laws impairing the obligation of contracts. But with the exception of these and a few other restrictions, the entire domain of the privileges and immunities of citizens of the States as above defined lay within the constitutional and legislative power of the States and without that of the Federal Government. Was it the purpose of the fourteenth amendment, by the simple declaration that no State should make or enforce any law which shall abridge the privileges and immunities of citizens of the United States, to transfer the security and protection of all civil rights which we have mentioned from the States to the Federal Government?

And where it is declared that Congress shall have the power to enforce that article, was it intended to bring within the power of Congress the entire domain of civil rights heretofore belonging exclusively to the States?

All this and more must follow if the proposition of the plaintiffs in error be sound.

For not only are these rights subject to the control of Congress, whenever in its discretion any of them are supposed to be abridged by State legislation, but that body may also pass laws in advance, limiting and restricting the exercise of legislative power by the States in their most ordinary and usual functions, as in its judgment it may think proper, on all such subjects. And still further, such a construction followed by the reversal of the judgments of the supreme court of Louisiana in these cases would constitute this court a perpetual censor upon all legislation of the States on the civil rights of their own citizens, with authority to nullify such as it did not approve as consistent with those rights as they existed at the time of the adoption of this amendment.

The argument, we admit, is not always the most conclusive which is drawn from the consequences urged against the adoption of a particular construction of an instrument. But when, as in the case before us, these consequences are so serious, so far-reaching and pervading, so great a departure from the structure and spirit of our institutions; when the effect is to fetter and degrade the State governments by subjecting them to the control of Congress in the exercise of power heretofore universally conceded to them of the most ordinary and fundamental character; when, in fact, it radically changes the whole theory of the relations of the State and Federal governments to each other, and of both these governments to the people, the argument has a force that is irresistible in the absence of language which expresses such a purpose too clearly to admit of doubt. We are convinced that no such results were intended by the Congress which proposed the amendments, nor by the legislatures of the States which ratified them.

Much more from the same opinion bearing on this question could be quoted, but the above is sufficient.

This much as to the right of Congress to pass this bill.

Mr. Speaker, I desire to say a few words as to the effect the passage of this bill will have upon the people I represent. As before said, the slave has been made a freedman—been made a citizen and enfranchised. These are political rights. The State which I in part represent protects him in the enjoyment of these rights, and I do not know of any man in my district who desires to interfere with those rights. But, sir, when you undertake to legislate as to the civil and social relations of the races, then you will have aroused and embittered the feelings of the Anglo-Saxon race to such an extent that it will be hard to control them. The poorest and humblest white person in my district feels and knows that he or she belongs to a superior race morally and intellectually, and nothing is so revolting to them as social equality with this inferior race. They will treat the freedman kindly, but socially hold aloof from him, as belonging to an inferior race. You may say these are not social relations provided for in this bill; but, sir, if I am compelled to sit side by side with him in the theater, the stage-coach, and the railroad car, to eat with him at the same table at the hotels, and my child to be educated at the same schools with his child—if these are not social relations I do not understand them.

To my mind, the most objectionable part of this bill is that which forces the children of freedmen into our common schools. The State of Kentucky in her liberality has provided a good system of common schools, which is supported by a direct tax upon the property of the white people of that State; and there are hundreds of poor children in my district, and thousands in Kentucky, who receive in these schools all the education they ever get; and they look upon this privilege as the greatest boon which an enlightened Legislature could confer upon them. Should this bill pass, and the children of freedmen demand admission into these schools, I believe the system in Kentucky will be so injured as to become worthless, and the thousands of children who thus receive a good common-school education, and who are unable to pay in the private schools, will go uneducated. Poor as they are, they will not accept of an education upon such degrading terms. I want to see the children of freedmen educated; and I believe if the people of Kentucky are let alone they will provide a way to educate them to themselves in separate schools. They are not taxed one cent to support our schools now. As far back as February, 1866, the Legislature of Kentucky provided that all the taxes collected from freedmen should go to the support of their paupers and the education of their children. The first and fourth sections of said act read as follows:

SECTION 1. That all the taxes hereafter collected from the negroes and mulattoes in this Commonwealth shall be set apart and constitute a separate fund for their use and benefit; one-half, if necessary, to go to the support of their paupers, and the remainder to the education of their children.

* * * * * * *

SEC. 4. The trustees of each school district in this Commonwealth may cause a separate school to be taught in their district for the education of the negro and mulatto children in said district, to be conducted and reported as other schools are, upon which they shall receive their proportion of the fund set apart in this act for that purpose.

The whole of the taxes of the freedmen of Kentucky go to support their own paupers and the education of their own children, and they contribute nothing to the support of the State government. They are protected in their lives, liberties, and in the pursuit of happiness at the expense of the white people. They are protected in all of their political rights without the payment of one farthing to secure that protection. There are hundreds of paupers in that State supported out of the various county treasuries, because their own funds are insufficient to support them. The insane are sent to one of our lunatic asylums and taken care of, and the expense paid out of the public treasury, which is filled alone by taxes, &c., levied upon the property of the white people of the State. Under the provisions of the above act separate schools have been organized and taught for the children of freedmen in many parts of Kentucky; and if we are let alone I believe our people will provide some way to educate them generally. I believe the passage of this bill will so embitter the white people of Kentucky that it will retard, rather than forward, the educational advantages of the blacks. I believe it will destroy our whole common-school system.

Mr. Speaker, I ask the gentlemen on the other side of the house who are pressing this bill to pause and reflect upon the consequences which must result from its passage. I ask them not thus to strike down and override the reserved rights of the States. I ask, in behalf of the white children of my district, not thus to destroy the only means they have to acquire an education. I ask, in behalf of every white person in my district, that you do not force upon them the degrading provisions of this bill. I ask you now, when the two races are living quietly together in the same State, not to pass a law, the effect of which will do more than anything else to disturb that quiet, perhaps ending in a war of the races; and when that occurs, the black race in this country will be exterminated. I shall, to avert some of the evil consequences of this bill, propose the following amendment, to come in at the end of section 1:

But should the trustees or other persons having control over the free or common schools in their respective districts cause to be taught a separate school in said district for the negro and mulatto children therein for the same length of time the other free or common school is taught, then said negroes or mulattoes shall have no right under this bill to admission to or accommodation in schools wherein white children are taught.

Mr. ELLIOTT obtained the floor, and yielded to

Mr. RANSIER. I desire to give notice, that at the proper time I propose to offer the following additional section, which I ask to have printed:

That no citizen possessing all qualifications which are or may be prescribed by law shall be disqualified for service as juror in any court, national or State, by reason of race, color, or previous condition of servitude; and any officer or other person charged with the duty of the selection or summoning of jurors who shall exclude or fail to summon any citizen for the reasons above named shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not less than $1,000 nor more than $5,000; and any discrimination against any citizen on account of color, by use of the word "white" in any law, statute, ordinance, or regulation, national or State, is hereby repealed.

Mr. LOWNDES. I desire to have the following amendment printed: Add to section 1 the following:

Provided, That where separate schools are provided for white and colored children, the children of each race shall have admission only to the schools for that race.

Mr. KNAPP. I desire to have read an amendment which I propose to offer whenever the opportunity may be presented.

The Clerk read as follows:

That the declaration of intention to become a citizen of the United States, when made by any person in good faith according to the statute in such cases made and provided, without distinction of race or color, shall *prima facie* entitle such person to the protection of the Government of the United States; and when desiring temporarily to absent himself from the territorial area of this Government, to the proper passports, fully guaranteeing such protection in all respects as though he had been regularly naturalized; and all laws and parts of laws or regulations in conflict with this act be, and the same are hereby, repealed and rescinded.

Mr. BUCKNER. I wish to give notice of my intention to offer the following amendment:

Strike out in lines 12 and 13 the words "because of race, color, or previous condition of servitude," and insert "alien who has declared his intention to become a citizen of the United States according to existing laws or other person within the jurisdiction of any State."

Mr. ELLIOTT. While I am sincerely grateful for this high mark of courtesy that has been accorded to me by this House, it is a matter of regret to me that it is necessary at this day that I should rise in the presence of an American Congress to advocate a bill which simply asserts equal rights and equal public privileges for all classes of American citizens. I regret, sir, that the dark hue of my skin may lend a color to the imputation that I am controlled by motives personal to myself in my advocacy of this great measure of national justice. Sir, the motive that impels me is restricted by no such narrow boundary, but is as broad as your Constitution. I advocate it, sir, because it is right. The bill, however, not only appeals to your justice, but it demands a response from your gratitude.

In the events that led to the achievement of American Independence the negro was not an inactive or unconcerned spectator. He bore his part bravely upon many battle-fields, although uncheered by that certain hope of political elevation which victory would secure to the white man. The tall granite shaft, which a grateful State has reared above its sons who fell in defending Fort Griswold against the attack of Benedict Arnold, bears the name of Jordan, Freeman, and other brave men of the African race who there cemented with their blood the corner-stone of the Republic. In the State which I have the honor in part to represent the rifle of the black man rang out against the troops of the British crown in the darkest days of the American Revolution. Said General Greene, who has been justly termed the Washington of the North, in a letter written by him to Alexander Hamilton, on the 10th day of January, 1781, from the vicinity of Camden, South Carolina:

There is no such thing as national character or national sentiment. The inhabitants are numerous, but they would be rather formidable abroad than at home. There is a great spirit of enterprise among the black people, and those that come out as volunteers are not a little formidable to the enemy.

At the battle of New Orleans, under the immortal Jackson, a colored regiment held the extreme right of the American line unflinchingly, and drove back the British column that pressed upon them, at the point of the bayonet. So marked was their valor on that occasion that it evoked from their great commander the warmest encomiums, as will be seen from his dispatch announcing the brilliant victory.

As the gentleman from Kentucky, [Mr. BECK,] who seems to be the leading exponent on this floor of the party that is arrayed against the principle of this bill, has been pleased, in season and out of season, to cast odium upon the negro and to vaunt the chivalry of his State, I may be pardoned for calling attention to another portion of the same dispatch. Referring to the various regiments under his command, and their conduct on that field which terminated the second war of American Independence, General Jackson says:

At the very moment when the entire discomfiture of the enemy was looked for with a confidence amounting to certainty, the Kentucky re-enforcements, in whom so much reliance had been placed, ingloriously fled.

In quoting this indisputable piece of history, I do so only by way of admonition and not to question the well-attested gallantry of the true Kentuckian, and to suggest to the gentleman that it would be well that he should not flaunt his heraldry so proudly while he bears this bar-sinister on the military escutcheon of his State—a State which answered the call of the Republic in 1861, when treason thundered at the very gates of the capital, by coldly declaring her neutrality in the impending struggle. The negro, true to that patriotism and love of country that have ever characterized and marked his history on this continent, came to the aid of the Government in its efforts to maintain the Constitution. To that Government he now appeals; that Constitution he now invokes for protection against outrage and unjust prejudices founded upon caste.

But, sir, we are told by the distinguished gentleman from Georgia [Mr. STEPHENS] that Congress has no power under the Constitution to pass such a law, and that the passage of such an act is in direct contravention of the rights of the States. I cannot assent to any such proposition. The constitution of a free government ought always to be construed in favor of human rights. Indeed, the thirteenth, fourteenth, and fifteenth amendments, in positive words, invest Congress with the power to protect the citizen in his civil and political rights. Now, sir, what are civil rights? Rights natural, modified by civil society. Mr. Lieber says:

By civil liberty is meant, not only the absence of individual restraint, but liberty within the social system and political organism—a combination of principles and laws which acknowledge, protect, and favor the dignity of man. * * * Civil liberty is the result of man's two-fold character as an individual and social being, so soon as both are equally respected.—*Lieber on Civil Liberty*, page 25.

Alexander Hamilton, the right-hand man of Washington in the perilous days of the then infant Republic, the great interpreter and expounder of the Constitution, says:

Natural liberty is a gift of the beneficent Creator to the whole human race; civil liberty is founded on it; civil liberty is only natural liberty modified and secured by civil society.—*Hamilton's History of the American Republic*, vol, 1, page 70.

In the French constitution of June, 1793, we find this grand and noble declaration:

Government is instituted to insure to man the free use of his natural and inalienable rights. These rights are equality, liberty, security, property. All men are equal by nature and before the law. * * * Law is the same for all, be it protective or penal. Freedom is the power by which man can do what does not interfere with the rights of another; its basis is nature, its standard is justice, its protection is law, its moral boundary is the maxim: "Do not unto others what you do not wish they should do unto you."

Are we then, sir, with the amendments to our Constitution staring us in the face; with these grand truths of history before our eyes; with innumerable wrongs daily inflicted upon five million citizens demanding redress, to commit this question to the diversity of State legislation? In the words of Hamilton—

Is it the interest of the Government to sacrifice individual rights to the preservation of the rights of an artificial being, called States? There can be no truer principle than this, that every individual of the community at large has an equal right to the protection of Government. Can this be a free Government if partial distinctions are tolerated or maintained?

The rights contended for in this bill are among "the sacred rights of mankind, which are not to be rummaged for among old parchments or musty records; they are written as with a sunbeam, in the whole volume of human nature, by the hand of the Divinity itself, and can never be erased or obscured by mortal power."

But the Slaughter-house cases!—the Slaughter-house cases!

The honorable gentleman from Kentucky, always swift to sustain the failing and dishonored cause of proscription, rushes forward and flaunts in our faces the decision of the Supreme Court of the United States in the Slaughter-house cases, and in that act he has been willingly aided by the gentleman from Georgia. Hitherto, in the contests which have marked the progress of the cause of equal civil rights, our opponents have appealed sometimes to custom, sometimes to prejudice, more often to pride of race, but they have never sought to shield themselves behind the Supreme Court. But now, for the first time, we are told that we are barred by a decision of that court, from which there is no appeal. If this be true we must stay our hands. The cause of equal civil rights must pause at the command of a power whose edicts must be obeyed till the fundamental law of our country is changed.

Has the honorable gentleman from Kentucky considered well the claim he now advances? If it were not disrespectful I would ask, has he ever read the decision which he now tells us is an insuperable barrier to the adoption of this great measure of justice?

In the consideration of this subject, has not the judgment of the gentleman from Georgia been warped by the ghost of the dead doctrines of State-rights? Has he been altogether free from prejudices engendered by long training in that school of politics that well-nigh destroyed this Government?

Mr. Speaker, I venture to say here in the presence of the gentleman from Kentucky, and the gentleman from Georgia, and in the presence of the whole country, that there is not a line or word, not a thought or dictum even, in the decision of the Supreme Court in the great Slaughter-house cases which casts a shadow of doubt on the right of Congress to pass the pending bill, or to adopt such other legislation as it may judge proper and necessary to secure perfect equality before the law to every citizen of the Republic. Sir, I protest against the dishonor now cast upon our Supreme Court by both the gentleman from Kentucky and the gentleman from Georgia. In other days, when the whole country was bowing beneath the yoke of slavery, when press, pulpit, platform, Congress, and courts felt the fatal power of the slave oligarchy, I remember a decision of that court which no American now reads without shame and humiliation. But those days are past. The Supreme Court of to-day is a tribunal as true to freedom as any department of this Government, and I am honored with the opportunity of repelling a deep disgrace which the gentleman from Kentucky, backed and sustained as he is by the gentleman from Georgia, seeks to put upon it.

What were these Slaughter-house cases? The gentleman should be aware that a decision of any court should be examined in the

light of the exact question which is brought before it for decision. That is all that gives authority to any decision.

The State of Louisiana, by act of her Legislature, had conferred on certain persons the exclusive right to maintain stock-landings and slaughter-houses within the city of New Orleans, or the parishes of Orleans, Jefferson, and Saint Bernard, in that State. The corporation which was thereby chartered were invested with the sole and exclusive privilege of conducting and carrying on the live-stock, landing, and slaughter-house business within the limits designated.

The supreme court of Louisana sustained the validity of the act conferring these exclusive privileges, and the plaintiffs in error brought the case before the Supreme Court of the United States for review. The plaintiffs in error contended that the act in question was void, because, first, it established a monopoly which was in derogation of common right and in contravention of the common law; and, second, that the grant of such exclusive privileges was in violation of the thirteenth and fourteenth amendments of the Constitution of the United States.

It thus appears from a simple statement of the case that the question which was before the court was not whether a State law which denied to a particular portion of her citizens the rights conferred on her citizens generally, on account of race, color, or previous condition of servitude, was unconstitutional because in conflict with the recent amendments, but whether an act which conferred on certain citizens exclusive privileges for police purposes was in conflict therewith, because imposing an involuntary servitude forbidden by the thirteenth amendment, or abridging the rights and immunities of citizens of the United States, or denying the equal protection of the laws, prohibited by the fourteenth amendment.

On the part of the defendants in error it was maintained that the act was the exercise of the ordinary and unquestionable power of the State to make regulation for the health and comfort of society—the exercise of the police power of the State, defined by Chancellor Kent to be "the right to interdict unwholesome trades, slaughter-houses, operations offensive to the senses, the deposit of powder, the application of steam-power to propel cars, the building with combustible materials, and the burial of the dead in the midst of dense masses of population, on the general and rational principle that every person ought so to use his own property as not to injure his neighbors, and that private interests must be made subservient to the general interests of the community."

The decision of the Supreme Court is to be found in the 16th volume of Wallace's Reports, and was delivered by Associate Justice Miller. The court hold, first, that the act in question is a legitimate and warrantable exercise of the police power of the State in regulating the business of stock-landing and slaughtering in the city of New Orleans and the territory immediately contiguous. Having held this, the court proceeds to discuss the question whether the conferring of exclusive privileges, such as those conferred by the act in question, is the imposing of an involuntary servitude, the abridging of the rights and immunities of citizens of the United States, or the denial to any person within the jurisdiction of the State of the equal protection of the laws.

That the act is not the imposition of an involuntary servitude the court hold to be clear, and they next proceed to examine the remaining questions arising under the fourteenth amendment. Upon this question the court hold that the leading and comprehensive purpose of the thirteenth, fourteenth, and fifteenth amendments was to secure the complete freedom of the race, which, by the events of the war, had been wrested from the unwilling grasp of their owners. I know no finer or more just picture, albeit painted in the neutral tints of true judicial impartiality, of the motives and events which led to these amendments. Has the gentleman from Kentucky read these passages which I now quote? Or has the gentleman from Georgia considered well the force of the language therein used? Says the court on page 70:

> The process of restoring to their proper relations with the Federal Government and with the other States those which had sided with the rebellion, undertaken under the proclamation of President Johnson in 1865, and before the assembling of Congress, developed the fact that, notwithstanding the formal recognition by those States of the abolition of slavery, the condition of the slave race would, without further protection of the Federal Government, be almost as bad as it was before. Among the first acts of legislation adopted by several of the States in the legislative bodies which claimed to be in their normal relations with the Federal Government, were laws which imposed upon the colored race onerous disabilities and burdens, and curtailed their rights in the pursuit of life, liberty, and property to such an extent that their freedom was of little value, while they had lost the protection which they had received from their former owners from motives both of interest and humanity.
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> They were in some States forbidden to appear in the towns in any other character than menial servants. They were required to reside on and cultivate the soil, without the right to purchase or own it. They were excluded from any occupations of gain, and were not permitted to give testimony in the courts in any case where a white man was a party. It was said that their lives were at the mercy of bad men, either because the laws for their protection were insufficient or were not enforced.
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> These circumstances, whatever of falsehood or misconception may have been mingled with their presentation, forced upon the statesmen who had conducted the Federal Government in safety through the crisis of the rebellion, and who supposed that by the thirteenth article of amendment they had secured the result of their labors, the conviction that something more was necessary in the way of constitutional protection to the unfortunate race who had suffered so much. They accordingly passed through Congress the proposition for the fourteenth amendment, and they declined to treat as restored to their full participation in the Government of the Union the States which had been in insurrection until they ratified that article by a formal vote of their legislative bodies.
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> Before we proceed to examine more critically the provisions of this amendment, on which the plaintiffs in error rely, let us complete and dismiss the history of the recent amendments, as that history relates to the general purpose which pervades them all. A few years' experience satisfied the thoughtful men who had been the authors of the other two amendments that, notwithstanding the restraints of those articles on the States and the laws passed under the additional powers granted to Congress, these were inadequate for the protection of life, liberty, and property, without which freedom to the slave was no boon. They were in all those States denied the right of suffrage. The laws were administered by the white man alone. It was urged that a race of men distinctively marked as was the negro, living in the midst of another and dominant race, could never be fully secured in their person and their property without the right of suffrage.
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> Hence the fifteenth amendment, which declares that "the right of a citizen of the United States to vote shall not be denied or abridged by any State on account of race, color, or previous condition of servitude." The negro having, by the fourteenth amendment, been declared to be a citizen of the United States, is thus made a voter in every State of the Union.
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> We repeat, then, in the light of this recapitulation of events almost too recent to be called history, but which are familiar to us all, and on the most casual examination of the language of these amendments, no one can fail to be impressed with the one pervading purpose found in them all, lying at the foundation of each, and without which none of them would have been even suggested; we mean the freedom of the slave race, the security and firm establishment of that freedom, and the protection of the newly-made freeman and citizen from the oppressions of those who had formerly exercised unlimited dominion over him. It is true that only the fifteenth amendment in terms mentions the negro by speaking of his color and his slavery. But it is just as true that each of the other articles was addressed to the grievances of that race, and designed to remedy them, as the fifteenth.

These amendments, one and all, are thus declared to have as their all-pervading design and end the security to the recently enslaved race, not only their nominal freedom, but their complete protection from those who had formerly exercised unlimited dominion over them. It is in this broad light that all these amendments must be read, the purpose to secure the perfect equality before the law of all citizens of the United States. What you give to one class you must give to all; what you deny to one class you shall deny to all, unless in the exercise of the common and universal police power of the State you find it needful to confer exclusive privileges on certain citizens, to be held and exercised still for the common good of all.

Such are the doctrines of the Slaughter-house cases—doctrines worthy of the Republic, worthy of the age, worthy of the great tribunal which thus loftily and impressively enunciates them. Do they—I put it to any man, be he lawyer or not; I put it to the gentleman from Georgia—do they give color even to the claim that this Congress may not now legislate against a plain discrimination made by State laws or State customs against that very race for whose complete freedom and protection these great amendments were elaborated and adopted? Is it pretended, I ask the honorable gentleman from Kentucky or the honorable gentleman from Georgia—is it pretended anywhere that the evils of which we complain, our exclusion from the public inn, from the saloon and table of the steamboat, from the sleeping-coach on the railway, from the right of sepulture in the public burial-ground, are an exercise of the police power of the State? Is such oppression and injustice nothing but the exercise by the State of the right to make regulations for the health, comfort; and security of all her citizens? Is it merely enacting that one man shall so use his own as not to injure another's? Are the colored race to be assimilated to an unwholesome trade or to combustible materials, to be interdicted, to be shut up within prescribed limits? Let the gentleman from Kentucky or the gentleman from Georgia answer. Let the country know to what extent even the audacious prejudice of the gentleman from Kentucky will drive him, and how far even the gentleman from Georgia will permit himself to be led captive by the unrighteous teachings of a false political faith.

If we are to be likened in legal view to "unwholesome trades," to "large and offensive collections of animals," to "noxious slaughter-houses," to "the offal and stench which attend on certain manufactures," let it be avowed. If that is still the doctrine of the political party to which the gentlemen belong, let it be put upon record. If State laws which deny us the common rights and privileges of other citizens, upon no possible or conceivable ground save one of prejudice, or of "taste," as the gentleman from Texas termed it, and as I suppose the gentlemen will prefer to call it, are to be placed under the protection of a decision which affirms the right of a State to regulate the police of her great cities, then the decision is in conflict with the bill before us. No man will dare maintain such a doctrine. It is as shocking to the legal mind as it is offensive to the heart and conscience of all who love justice or respect manhood. I am astonished that the gentleman from Kentucky or the gentleman from Georgia should have been so grossly misled as to rise here and assert that the decision of the Supreme Court in these cases was a denial to Congress of the power to legislate against discriminations on account of race, color, or previous condition of servitude, because that court has decided that exclusive privileges conferred for the common protection of the lives and health of the whole community are not in violation of the recent amendments. The only ground upon which the grant of exclusive privileges to a portion of the community is ever defended is that the substantial good of all is promoted; that in truth it is for the welfare of the whole community that certain persons should alone pursue certain occupations. It is not the special benefit conferred on the few that moves the legislature, but the ultimate and real benefit of all, even of those who are denied the right to pursue those specified occupations. Does the gentleman from Kentucky say that my good is promoted when I am excluded from the public inn? Is the health or safety of the community promoted? Doubtless his prejudice is grati-

fied. Doubtless his democratic instincts are pleased; but will he or his able coadjutor say that such exclusion is a lawful exercise of the police power of the State, or that it is not a denial to me of the equal protection of the laws? They will not so say.

But each of these gentlemen quote at some length from the decision of the court to show that the court recognizes a difference between citizenship of the United States and citizenship of the States. That is true, and no man here who supports this bill questions or overlooks the difference. There are privileges and immunities which belong to me as a citizen of the United States, and there are other privileges and immunities which belong to me as a citizen of my State. The former are under the protection of the Constitution and laws of the United States, and the latter are under the protection of the constitution and laws of my State. But what of that? Are the rights which I now claim—the right to enjoy the common public conveniences of travel on public highways, of rest and refreshment at public inns, of education in public schools, of burial in public cemeteries—rights which I hold as a citizen of the United States or of my State? Or, to state the question more exactly, is not the denial of such privileges to me a denial to me of the equal protection of the laws? For it is under this clause of the fourteenth amendment that we place the present bill, no State shall "deny to any person within its jurisdiction the equal protection of the laws." No matter, therefore, whether his rights are held under the United States or under his particular State, he is equally protected by this amendment. He is always and everywhere entitled to the equal protection of the laws. All discrimination is forbidden; and while the rights of citizens of a State as such are not defined or conferred by the Constitution of the United States, yet all discrimination, all denial of equality before the law, all denial of the equal protection of the laws, whether State or national laws, is forbidden.

The distinction between the two kinds of citizenship is clear, and the Supreme Court have clearly pointed out this distinction, but they have nowhere written a word or line which denies to Congress the power to prevent a denial of equality of rights, whether those rights exist by virtue of citizenship of the United States or of a State. Let honorable members mark well this distinction. There are rights which are conferred on us by the United States. There are other rights conferred on us by the States of which we are individually the citizens. The fourteenth amendment does not forbid a State to deny to all its citizens any of those rights which the State itself has conferred, with certain exceptions, which are pointed out in the decision which we are examining. What it does forbid is inequality, is discrimination, or, to use the words of the amendment itself, is the denial "to any person within its jurisdiction the equal protection of the laws." If a State denies to me rights which are common to all her other citizens, she violates this amendment, unless she can show, as was shown in the Slaughter-house cases, that she does it in the legitimate exercise of her police power. If she abridges the rights of all her citizens equally, unless those rights are specially guarded by the Constitution of the United States, she does not violate this amendment. This is not to put the rights which I hold by virtue of my citizenship of South Carolina under the protection of the national Government; it is not to blot out or overlook in the slightest particular the distinction between rights held under the United States and rights held under the States; but it seeks to secure equality, to prevent discrimination, to confer as complete and ample protection on the humblest as on the highest.

The gentleman from Kentucky, in the course of the speech to which I am now replying, made a reference to the State of Massachusetts which betrays again the confusion which exists in his mind on this precise point. He tells us that Massachusetts excludes from the ballot-box all who cannot read and write, and points to that fact as the exercise of a right which this bill would abridge or impair. The honorable gentleman from Massachusetts [Mr. DAWES] answered him truly and well, but I submit that he did not make the best reply. Why did he not ask the gentleman from Kentucky if Massachusetts had ever discriminated against any of her citizens on account of color, or race, or previous condition of servitude? When did Massachusetts sully her proud record by placing on her statute-book any law which admitted to the ballot the white man and shut out the black man? She has never done it; she will not do it; she cannot do it so long as we have a Supreme Court which reads the Constitution of our country with the eyes of justice; nor can Massachusetts or Kentucky deny to any man, on account of his race, color, or previous condition of servitude, that perfect equality of protection under the laws so long as Congress shall exercise the power to enforce, by appropriate legislation, the great and unquestionable securities embodied in the fourteenth amendment to the Constitution.

But, sir, a few words more as to the suffrage regulation of Massachusetts.

It is true that Massachusetts in 1857, finding that her illiterate population was being constantly augmented by the continual influx of ignorant emigrants, placed in her constitution the least possible limitation consistent with manhood suffrage to stay this tide of foreign ignorance. Its benefit has been fully demonstrated in the intelligent character of the voters of that honored Commonwealth, reflected so conspicuously in the able Representatives she has to-day upon this floor. But neither is the inference of the gentleman from Kentucky legitimate, nor do the statistics of the census of 1870, drawn from his own State, sustain his astounding assumption. According to the statistics we find the whole white population of that State is 1,098,692; the whole colored population 222,210. Of the whole white population who cannot write we find 201,077; of the whole colored population who cannot write, 126,048; giving us, as will be seen, 96,162 colored persons who can write to 897,615 white persons who can write. Now, the ratio of the colored population to the white is as 1 to 5, and the ratio of the illiterate colored population to the whole colored population is as 1 to 2; the ratio of the illiterate white population is to the whole white population as 1 is to 5. Reducing this, we have only a preponderance of three-tenths in favor of the whites as to literacy, notwithstanding the advantages which they have always enjoyed and do now enjoy of free-school privileges, and this, too, taking solely into account the single item of being unable to write; for with regard to the inability to read, there is no discrimination in the statistics between the white and colored population. There is, moreover, a peculiar felicity in these statistics with regard to the State of Kentucky, quoted so opportunely for me by the honorable gentleman; for I find that the population of that State, both with regard to its white and colored populations, bears the same relative rank in regard to the white and colored populations of the United States; and, therefore, while one negro would be disfranchised were the limitation of Massachusetts put in force, nearly three white men would at the same time be deprived of the right of suffrage—a consummation which I think would be far more acceptable to the colored people of that State than to the whites.

Now, sir, having spoken as to the intention of the prohibition imposed by Massachusetts, I may be pardoned for a slight inquiry as to the effect of this prohibition. First, it did not in any way abridge or curtail the exercise of the suffrage by any person who at that time enjoyed such right. Nor did it discriminate between the illiterate native and the illiterate foreigner. Being enacted for the good of the entire Commonwealth, like all just laws, its obligations fell equally and impartially upon all its citizens. And as a justification for such a measure, it is a fact too well known almost for mention here that Massachusetts had, from the beginning of her history, recognized the inestimable value of an educated ballot, by not only maintaining a system of free schools, but also enforcing an attendance thereupon, as one of the safeguards for the preservation of a real republican form of government. Recurring then, sir, to the possible contingency alluded to by the gentleman from Kentucky, should the State of Kentucky, having first established a system of common schools whose doors shall swing open freely to all, as contemplated by the provisions of this bill, adopt a provision similar to that of Massachusetts, no one would have cause justly to complain. And if in the coming years the result of such legislation should produce a constituency rivaling that of the old Bay State, no one would be more highly gratified than I.

Mr. Speaker, I have neither the time nor the inclination to notice the many illogical and forced conclusions, the numerous transfers of terms, or the vulgar insinuations which further incumber the argument of the gentleman from Kentucky. Reason and argument are worse than wasted upon those who meet every demand for political and civil liberty by such ribaldry as this—extracted from the speech of the gentleman from Kentucky:

> I suppose there are gentlemen on this floor who would arrest, imprison, and fine a young woman in any State of the South if she were to refuse to marry a negro man on account of color, race, or previous condition of servitude, in the event of his making her a proposal of marriage, and her refusing on that ground. That would be depriving him of a right he had under the amendment, and Congress would be asked to take it up and say, "This insolent white woman must be taught to know that it is a misdemeanor to deny a man marriage because of race, color, or previous condition of servitude;" and Congress will be urged to say after a while that that sort of thing must be put a stop to, and your conventions of colored men will come here asking you to enforce that right.

Now, sir, recurring to the venerable and distinguished gentleman from Georgia, [Mr. STEPHENS,] who has added his remonstrance against the passage of this bill, permit me to say that I share in the feeling of high personal regard for that gentleman which pervades this House. His years, his ability, and his long experience in public affairs entitle him to the measure of consideration which has been accorded to him on this floor. But in this discussion I cannot and I will not forget that the welfare and rights of my whole race in this country are involved. When, therefore, the honorable gentleman from Georgia lends his voice and influence to defeat this measure, I do not shrink from saying that it is not from him that the American House of Representatives should take lessons in matters touching human rights or the joint relations of the State and national governments. While the honorable gentleman contented himself with harmless speculations in his study, or in the columns of a newspaper, we might well smile at the impotence of his efforts to turn back the advancing tide of opinion and progress; but, when he comes again upon this national arena, and throws himself with all his power and influence across the path which leads to the full enfranchisement of my race, I meet him only as an adversary; nor shall age or any other consideration restrain me from saying that he now offers this Government, which he has done his utmost to destroy, a very poor return for its magnanimous treatment, to come here and seek to continue, by the assertion of doctrines obnoxious to the true principles of our Government, the burdens and oppressions which rest upon five millions of his countrymen who never failed to lift their earnest prayers for the success of this Government when

the gentleman was seeking to break up the Union of these States and to blot the American Republic from the galaxy of nations. [Loud applause.]

Sir, it is scarcely twelve years since that gentleman shocked the civilized world by announcing the birth of a government which rested on human slavery as its corner-stone. The progress of events has swept away that *pseudo*-government which rested on greed, pride, and tyranny; and the race whom he then ruthlessly spurned and trampled on are here to meet him in debate, and to demand that the rights which are enjoyed by their former oppressors—who vainly sought to overthrow a Government which they could not prostitute to the base uses of slavery—shall be accorded to those who even in the darkness of slavery kept their allegiance true to freedom and the Union. Sir, the gentleman from Georgia has learned much since 1861; but he is still a laggard. Let him put away entirely the false and fatal theories which have so greatly marred an otherwise enviable record. Let him accept, in its fullness and beneficence, the great doctrine that American citizenship carries with it every civil and political right which manhood can confer. Let him lend his influence, with all his masterly ability, to complete the proud structure of legislation which makes this nation worthy of the great declaration which heralded its birth, and he will have done that which will most nearly redeem his reputation in the eyes of the world, and best vindicate the wisdom of that policy which has permitted him to regain his seat upon this floor.

To the diatribe of the gentleman from Virginia, [Mr. HARRIS,] who spoke on yesterday, and who so far transcended the limits of decency and propriety as to announce upon this floor that his remarks were addressed to white men alone, I shall have no word of reply. Let him feel that a negro was not only too magnanimous to smite him in his weakness, but was even charitable enough to grant him the mercy of his silence. [Laughter and applause on the floor and in the galleries.] I shall, sir, leave to others less charitable the unenviable and fatiguing task of sifting out of that mass of chaff the few grains of sense that may, perchance, deserve notice. Assuring the gentleman that the negro in this country aims at a higher degree of intellect than that exhibited by him in this debate, I cheerfully commend him to the commiseration of all intelligent men the world over—black men as well as white men.

Sir, equality before the law is now the broad, universal, glorious rule and mandate of the Republic. No State can violate that. Kentucky and Georgia may crowd their statute-books with retrograde and barbarous legislation; they may rejoice in the odious eminence of their consistent hostility to all the great steps of human progress which have marked our national history since slavery tore down the stars and stripes on Fort Sumter; but, if Congress shall do its duty, if Congress shall enforce the great guarantees which the Supreme Court has declared to be the one pervading purpose of all the recent amendments, then their unwise and unenlightened conduct will fall with the same weight upon the gentlemen from those States who now lend their influence to defeat this bill, as upon the poorest slave who once had no rights which the honorable gentlemen were bound to respect.

But, sir, not only does the decision in the Slaughter-house cases contain nothing which suggests a doubt of the power of Congress to pass the pending bill, but it contains an express recognition and affirmance of such power. I quote now from page 81 of the volume:

> "Nor shall any State deny to any person within its jurisdiction the equal protection of the laws."
>
> In the light of the history of these amendments, and the pervading purpose of them, which we have already discussed, it is not difficult to give a meaning to this clause. The existence of laws in the States where the newly emancipated negroes resided, which discriminated with gross injustice and hardship against them as a class, was the evil to be remedied by this clause, and by it such laws are forbidden.
>
> If, however, the States did not conform their laws to its requirements, then, by the fifth section of the article of amendment, Congress was authorized to enforce it by suitable legislation. We doubt very much whether any action of a State not directed by way of discrimination against the negroes as a class, or on account of their race, will ever be held to come within the purview of this provision. It is so clearly a provision for that race and that emergency, that a strong case would be necessary for its application to any other. But as it is a State that is to be dealt with, and not alone the validity of its laws, we may safely leave that matter until Congress shall have exercised its power, or some case of State oppression, by denial of equal justice in its courts shall, have claimed a decision at our hands.

No language could convey a more complete assertion of the power of Congress over the subject embraced in the present bill than is here expressed. If the States do not conform to the requirements of this clause, if they continue to deny to any person within their jurisdiction the equal protection of the laws, or as the Supreme Court had said, "deny equal justice in its courts," then Congress is here said to have power to enforce the constitutional guarantee by appropriate legislation. That is the power which this bill now seeks to put in exercise. It proposes to enforce the constitutional guarantee against inequality and discrimination by appropriate legislation. It does not seek to confer new rights, nor to place rights conferred by State citizenship under the protection of the United States, but simply to prevent and forbid inequality and discrimination on account of race, color, or previous condition of servitude. Never was there a bill more completely within the constitutional power of Congress. Never was there a bill which appealed for support more strongly to that sense of justice and fair-play which has been said, and in the main with justice, to be a characteristic of the Anglo-Saxon race. The Constitution warrants it; the Supreme Court sanctions it; justice demands it.

Sir, I have replied to the extent of my ability to the arguments which have been presented by the opponents of this measure. I have replied also to some of the legal propositions advanced by gentlemen on the other side; and now that I am about to conclude, I am deeply sensible of the imperfect manner in which I have performed the task. Technically, this bill is to decide upon the civil status of the colored American citizen; a point disputed at the very formation of our present Government, when by a short-sighted policy, a policy repugnant to true republican government, one negro counted as three-fifths of a man. The logical result of this mistake of the framers of the Constitution strengthened the cancer of slavery, which finally spread its poisonous tentacles over the southern portion of the body-politic. To arrest its growth and save the nation we have passed through the harrowing operation of intestine war, dreaded at all times, resorted to at the last extremity, like the surgeon's knife, but absolutely necessary to extirpate the disease which threatened with the life of the nation the overthrow of civil and political liberty on this continent. In that dire extremity the members of the race which I have the honor in part to represent—the race which pleads for justice at your hands to-day, forgetful of their inhuman and brutalizing servitude at the South, their degradation and ostracism at the North—flew willingly and gallantly to the support of the national Government. Their sufferings, assistance, privations, and trials in the swamps and in the rice-fields, their valor on the land and on the sea, is a part of the ever-glorious record which makes up the history of a nation preserved, and might, should I urge the claim, incline you to respect and guarantee their rights and privileges as citizens of our common Republic. But I remember that valor, devotion, and loyalty are not always rewarded according to their just deserts, and that after the battle some who have borne the brunt of the fray may, through neglect or contempt, be assigned to a subordinate place, while the enemies in war may be preferred to the sufferers.

The results of the war, as seen in reconstruction, have settled forever the political status of my race. The passage of this bill will determine the civil status, not only of the negro, but of any other class of citizens who may feel themselves discriminated against. It will form the cap-stone of that temple of liberty, begun on this continent under discouraging circumstances, carried on in spite of the sneers of monarchists and the cavils of pretended friends of freedom, until at last it stands in all its beautiful symmetry and proportions, a building the grandest which the world has ever seen, realizing the most sanguine expectations and the highest hopes of those who, in the name of equal, impartial, and universal liberty, laid the foundation stones.

The Holy Scriptures tell us of an humble hand-maiden who long, faithfully and patiently gleaned in the rich fields of her wealthy kinsman; and we are told further that at last, in spite of her humble antecedents, she found complete favor in his sight. For over two centuries our race has "reaped down your fields." The cries and woes which we have uttered have "entered into the ears of the Lord of Sabaoth," and we are at last politically free. The last vestiture only is needed—civil rights. Having gained this, we may, with hearts overflowing with gratitude, and thankful that our prayer has been granted, repeat the prayer of Ruth: "Entreat me not to leave thee, or to return from following after thee; for whither thou goest, I will go; and where thou lodgest, I will lodge; thy people shall be my people, and thy God my God; where thou diest, will I die, and there will I be buried; the Lord do so to me, and more also, if aught but death part thee and me." [Great applause.]

Mr. BLOUNT obtained the floor and yielded to

Mr. BELL, who said: Mr. Speaker, I am satisfied that from the number of gentlemen who desire to participate in this discussion I shall not have an opportunity to submit to the consideration of the House my views, and those of my constituents, upon this question. I therefore ask the consent of the House to the publication in the RECORD of some remarks I have prepared on this subject.

Mr. RAINEY. I object.

Mr. BLOUNT. Mr. Speaker, under ordinary circumstances I would prefer not to thrust myself into discussions on this floor, but rather to listen and learn from others of larger experience than myself the true interests of the country in shaping its legislation. I fully realize the difficulty of fairly presenting, in the time allotted to me, the true character of this bill in any of its aspects.

I am further embarrassed by the conviction that the prejudices of the late civil war, though abating, standing between myself and a majority of this House, prevent the just force of fair argument; that the spirit of conciliation which actuated the States in the revolutionary struggle, and in framing the Federal Constitution, will not mark the result of our action on this bill.

Representing, however, that small section of the Union which is most affected by it, I am impelled by so keen a sense of its unconstitutionality, of its folly, of the absence of occasion for it, of the degradation and distress to the whites, and the injury to the people of both races, that I should feel that I had acted falsely to the trust confided to me were I from any motive to remain silent. I am aware, sir, that presenting a constitutional argument to a party which has claimed and exercised the right to deprive States of representation at pleasure, to tear down State governments and establish others in their

stead, and to force them to ratify constitutional amendments by the power of the bayonet, and has thus created so many precedents in violation of the Constitution that the sanctity of its obligations is not heeded as hoped for by its framers, would seem to be a useless consumption of time. Being restricted to twenty minutes, I do not intend to review them, but merely to note them as usurpations of the legislative department of the Government. Mr. DAWES, in referring to a compilation of decisions in election cases made during and since the war by the Committee on Elections, of which I believe he was chairman, declared they did not deserve weight as precedents, because they were made amid the passions aroused by sectional strife, and were wanting in that calmness of consideration which was a condition-precedent to right judgment. May we not hope that after nearly a decade has separated us from the termination of the war the same candor can be invoked in the consideration of the present subject of discussion?

If so, then the dawn of a happier day—of peace, prosperity, and a genuine reunion—is surely breaking upon the American people.

The power to pass this law it is asserted is to be found in the first section of the fourteenth article of amendments to the Constitution of the United States. That section declares:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Then follow the third, fourth, and last section, which provides Congress shall have power to enforce by appropriate legislation the provisions of the article.

The rights sought to be secured by this bill have always hitherto been regarded as subject to State legislation. This section does not divest State authority, but fixes a qualification to the exercise thereof. The bill does not assume the States have violated that section or have failed to enforce its provisions; but proceeds directly to divest them of all power, and to prescribe penalties, and to confer exclusive jurisdiction on the Federal courts. We are told that, in some of the States, while the laws are ample the courts and juries are not disposed to execute them. It is not pretended that this is true in all the States, and yet all of them under this bill lose their power over the subject-matter.

Even downtrodden Louisiana, plundered and ruled by her former slaves, is told that this additional humiliation awaits her. The American Congress have by unconstitutional means forced a negro government upon them, and yet we are told with all its machinery in their hands the negroes cannot protect their own rights. The daring effrontery of this effort verifies the wisdom of the warning of Mr. Madison and Mr. Jefferson to the American people, to guard against the danger of usurpation in the legislative department of the Government, for there lay the greatest danger of tyranny.

I know it has been said that if the section referred to gave no power save that of a negative upon the acts of the States there could be no legislation.

The Constitution declares no State shall pass a law impairing the obligation of contracts. This is an individual right placed under the protection of the General Government; and in order to secure it Congress have passed a law authorizing a writ of error to the Supreme Court wherever the right thus secured to the individual was drawn in question. And all State laws impairing the obligations of a contract were void, and yet no one has ever doubted the right of a State to pass laws to enforce rights. Believing that it will meet the full issue with the bill, I quote the following paragraph and the opinion of the Supreme Court thereon:

"Nor shall any State deny to any person within its jurisdiction the equal protection of the laws."

In the light of the history of the thirteenth, fourteenth, and fifteenth amendments, and the pervading purpose of them, which we have already discussed, it is not difficult to give a meaning to this clause. The existence of laws in the State where the newly emancipated negroes resided, which discriminated with gross injustice and hardship against them as a class, was the evil to be remedied by this clause, and by it such laws are forbidden.

If, however, the States did not conform their laws to its requirement, then by the fifth section of the fourteenth article of amendment Congress was authorized to enforce it by suitable legislation. We doubt very much whether any action of a State not directed against the negroes as a class, or on account of their race, will ever be held to come within the purview of this provision. In the early history of the formation of the Government its statesmen seem to have divided on the line which should separate the powers of the national Government from those of the State governments; and though this line has never been very well defined, in public opinion such a division has continued from that day to this.

When the civil war broke out, it was then discovered the true danger to the perpetuity of the Union was the capacity of the State organizations to combine and concentrate all the powers of the State, and of contiguous States, for a determined resistance to the General Government. Unquestionably this has given great force to the argument, and added largely to the number of those who believe in the necessity of a strong national Government.

But, however pervading this sentiment, and however it may have contributed to the adoption of the amendments we have been considering, we do not see in those amendments any purpose to destroy the main features of the general system. Under the pressure of all the excited feeling growing out of the war, our statesmen have still believed that the existence of the States, with powers for domestic and local government, including the regulation of civil rights—the rights of person and property—was essential to the working of our complex form of government, though they have thought proper to impose additional limitations on the States and to confer additional power on the nation.

The same reach of power here claimed can certainly grasp not only the control of State elections, but every other subject of State legislation. Beware lest unkindness to the South should prove the charming web in whose meshes our liberty shall perish. The national Legislature may yet prove the blind Samsonian strength which shal move the pillars of her temple from their place and destroy its votaries.

General BUTLER has said that in a foreign country we are bound to protect the rights of our citizens, and we must therefore have the right against the States. In the former case the States are prohibited by the Constitution from extending protection, this being entirely and necessarily delegated to the General Government, whereas they may and ought to do so as between their own citizens. Again, he says he wants this law to prohibit a negro from being pitched out of a car in cases where it is difficult to tell in what State the wrong was perpetrated. If he is serious in this, I imagine that when thrown off the negro could as easily ascertain his whereabouts as he could find a Federal court. As to any difficulty from one State having no law, and another having it, to protect their rights, I assert that in all of them they have the same law as the whites. Again, sir, how is it to be expected that if juries will not convict in State courts, they will be more virtuous in Federal courts? Is the manner of selecting jurors to be so devised as to secure men in sympathy with these prosecutions?

In my own State the jurors in the Federal court are selected so that they are comprised of persons pre-eminently ignorant and prejudiced against the white people thereof. A fair trial is despaired of by a white man if his controversy is with a negro. In the name of Christianity, of civilization, of liberty, and law; by the memories of the struggle of 1776, and the better days of the Republic; by the consciousness that a common destiny awaits us all, I urge you not to permit sectional feeling to prompt so great a crime.

And now, Mr. Speaker, I invite attention to the situation in my own city of the two races, in connection with the subjects of present legislation, which fairly illustrates my State.

The negroes have their own inns, and neither seek nor desire entertainment at those resorted to by the whites. They have the same cemetery with the whites, divided between the races, and each portion cared for alike. They have railroad facilities, comfortable and satisfactory. They have tasteful and substantial churches, erected largely by the contributions of generous white men, and which are to them a source of pride. They resort freely to places of public amusement, and have assigned them comfortable seats. They have equal educational facilities, both as to school-houses and teachers, with the whites; and could this House know how fully they are provided for in this respect it would compel their warmest commendation.

Often times they outnumber the whites in the jury-box. I do not mean to say they are in the jury-box in all counties, but do say that in many counties not one-fourth of the white voters have their names placed in it. A kindly feeling exists between the races. Labor, which had been demoralized by political excitement, is becoming profitable to laborer and employer, and mutual confidence and good-will is in process of perfect restoration. Let our people alone, and liberty, wealth, and harmony will spring forth in young and vigorous life, and commend the wisdom of your conduct.

But, sir, we are told the Government owes it to the colored people that this bill shall pass. There are in the Southern States two races, as distinct in their social feelings and prejudices as in color. These have a natural force beyond the control of human law. The sooner they are recognized by our rulers the better for both races and the country. Force the negro into the common schools where the white children go, and the whites will withdraw. The common schools will be abandoned, and the only hope for the moral and intellectual elevation of the negro will sink below the horizon forever. Force them into public inns, and the proprietor must submit to your prosecutions or abandon his calling, for the whites will not remain in such association. Public inconvenience follows, but nothing for the public good. Common carriers will be more or less affected by it.

What will be the result as to churches, cemeteries, and public amusements, I cannot exactly delineate. An unkind and ungenerous feeling will permeate all intercourse between the two races. The deplorable consequences, socially, politically, materially, cannot be overstated.

This Government cannot lay well these foundations for social equality. Mr. Speaker, the sovereignty of the States may be overthrown, the pride of the people may be mocked, their property may be swept away, cruel imprisonment may afflict them, the power of the Government may be turned in fearful vengeance upon them; but there is a law of the Creator that for a time may cease to operate, but can never become obsolete, that governs this question.

I assert, sir, that there is a disposition on the part of the whites to give the negro equal rights. Whatever inequality of public accommodations there may be is simply the result of an indisposition to social intercourse. But this even is not to be found in their laws or their courts.

Sir, the whites naturally view this as an attempt at ultimate amalgamation. This necessarily involves their degradation. A mean alliance always begets a progeny below the level of the better parent. If this is not true, why, when equal facilities for mental improvement are accorded to each race, demand they shall be placed side by side in the same school-room? The pride of the southern whites deserves admiration rather than execration.

Were the people not to be affected by this legislation seriously in

the same situation with us, I know full well this bill would not pass. Surely they are led by abstractions rather than a practical comprehension of the real wants of the South. In the name of the Constitution of our common country; in behalf of the time-honored power of the States to regulate the civil rights of its citizens; from an earnest desire to preserve the present good-feeling between the two races, and to avoid the antagonism and industrial detriment that is about to be called into life, I earnestly urge this House not to pass this measure. It contains evil, and evil only. It tells the white people of the South the war shall last forever. "While you have given to the Government great men and means whereby our liberties were established, you, their descendants, shall drink the dregs of humiliation forever!" Our people know this Government is to be theirs, and offer true allegiance to it. Only a few days ago a distinguished leader of the dominant party in this House, in discussing the bill making additional appropriations for the Navy, said he was confident there was not a man on this floor who was not prepared to vote every dollar necessary to the vindication of the national honor. It was true not only of this House, but of all sections of this country. Why stifle the feeling? Why wound the pride of such people? The strength of a nation must rest upon the affections of its subjects. Why, then, should they not be cherished?

Mr. Speaker, I represent an intelligent, brave, and generous people, and for them I have sought the attention of this House. For them I enter solemn protest against the passage of this bill, and invoke that justice which future times will award them.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed without amendment a joint resolution (H. R. No. 14) giving the consent of Congress to the acceptance by Edward Young of a present from the Emperor of Russia.

CIVIL RIGHTS.

The House resumed the consideration of the civil-rights bill.

Mr. POLAND obtained the floor, and said: Mr. Speaker, I have had occasion several times to express my general views in relation to the questions involved in this bill, and therefore do not feel at liberty to occupy time now myself. I yield ten minutes to the gentleman from Ohio, [Mr. LAWRENCE.]

Mr. LAWRENCE. Mr. Speaker, after the magnificent and unanswerable speech of the gentleman from South Carolina [Mr. ELLIOTT] I feel reluctant to trespass on the patience of the House. I would not do so, but it seems to me there are some considerations in favor of the constitutional power and duty of Congress to pass this bill which possibly have not been fully presented.

To determine the question whether this bill should pass, we may properly inquire what it is or is not; whether it is within the constitutional power of Congress to make it a law, and if we have a discretion in the matter, the expediency of its provisions or objects.

It proposes to make it a penal offense for any corporation or person to make any distinction because of race or color in affording to any citizen of the United States the privilege of admission to or accommodation in several enumerated classes of public institutions created and protected for public purposes by authority of either common or statutory law, or both. It proposes to secure equal privileges, regardless of race or color, in public inns, licensed places of public amusement, in the means of public carriage of passengers and freight, in cemeteries, and benevolent institutions; and an equal opportunity for instruction in schools supported in whole or in part at public expense or by endowment for public use.

All these are created or recognized and protected by public law, and the bill proposes to declare that their benefits, like the dews of heaven, shall descend alike upon all citizens, whether an American, or Irish, or German, or African sun may have burned upon them.

It should be observed that the bill does not give or propose to give or create any right where none existed before; but it simply declares that wherever public rights already exist by law in favor of citizens generally, none shall be excluded merely on account of race or color. This is the rule of justice and the only rule of safety.

This bill is supplemental to the civil-rights act of April 9, 1866.

Congress has the constitutional power to pass this bill. The protection of the rights of citizens enumerated in the bill is not left exclusively to the care of the States. This may be proved by the language of the Constitution, by the history of some of its provisions, and by the determination of the courts.

The fourteenth article of amendments declares that—

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens * * *; nor shall any State * * * deny to any person within its jurisdiction the equal protection of the laws.

And—

Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

If a doubt could arise as to how these words are to be interpreted, if any question could exist as to their construction, let it be remembered they are provisions in favor of human rights, and all such are to be liberally construed to effectuate their object.

The object of this provision is to make all men equal before the law. If a State permits inequality in rights to be created or meted out by citizens or corporations enjoying its protection it denies the equal protection of the laws. What the State permits by its sanction, having the power to prohibit, it does in effect itself.

A remedial power in the Constitution is to be construed liberally. (Chisholm *vs.* Georgia, 2 Dallas, 476.)

Where a power is remedial in its nature there is much reason to contend that it ought to be construed liberally. (1 Story, Const., §429.)

The rule of the liberal construction of the power to make laws necessary and proper to carry into effect all the provisions of the Constitution was adopted in Gibbons *vs.* Ogden, 9 Wheat.

Adopting this rule, then, the word "laws" must include all laws which prevail in a State—constitutions, treaties, statutes, common law, international law—in brief, all laws.

When it is said "no State shall deny to any person the equal protection" of these laws, the word "protection" must not be understood in any restricted sense, but must include every benefit to be derived from laws. The word "deny" must include an omission by any State to enforce or secure the equal rights designed to be protected. There are sins of omission as well as commission. A State which omits to secure rights denies them. This section deals with "the privileges" and the "immunities of citizens"—not some privileges, but "the privileges"—all privileges, and for all these the "equal protection," the equal benefit, of all laws is to be extended to all citizens.

By the common law it is the duty of common carriers of passengers and freight to carry all orderly and well-conditioned persons.

Story, in his work on bailments, says:

One of the duties of a common carrier is, to receive and carry all goods offered for transportion by any persons whatsover, upon receiving a suitable hire * * * if he will not * * * he will be liable to an action unless there is a reasonable ground for the refusal. (Section 508.)

And no law-book has ventured to say the color of the person offering goods is any ground for refusal.

He says of common carriers of passengers:

The first and most general obligation on their part is, to carry passengers whenever they offer themselves and are ready to pay for their transportation * * * they are no more at liberty to refuse a passenger, if they have sufficient room and accommodation, than an inn-keeper is to refuse suitable room and accommodations to a guest. (Section 591.)

The fourteenth amendment declares, in effect, that no State "shall deny to any person within its jurisdiction the equal protection of the laws;" that is, the equal benefit of these principles of common law shared by and existing for the protection of citizens generally. Still more, it declares that Congress *shall enforce* this equality of privileges

When the States by law create and protect, and by taxation on the property of all support, benevolent institutions designed to care for those who need their benefits, the dictates of humanity require that equal provision should be made for all. Those who share these benefits enjoy in them and by them "the protection of the laws," the benefit of all that results from the laws which create, protect, and support them. And by the fourteenth amendment, no State shall deny to any the equal benefit of these laws, and Congress is charged with the duty of enforcing this equality of benefits or protection; and to make this effectual it is declared that "Congress shall have power to enforce by appropriate legislation" this right to an equal participation in the benefit to result from the law regulating common carriers. And this principle applies to every public benefit enjoyed by citizens generally under or by reason of public law.

If Congress does not have the power to legislate to secure the right to enjoy these equal benefits then what is it that "Congress shall have power to enforce by appropriate legislation?"

It is a rule of interpretation that words are to be construed so that they may have some effect—*verba ita sunt intelligenda ut res magis valeat quam pereat.*

The history of the amendments to the Constitution proves that the design of the fourteenth amendment was to confer upon Congress the power to enforce civil rights.

The first act of Congress known as the civil-rights law, is dated April 9, 1866.

The necessity for this was abundantly shown in the debates of Congress. (Globe, 1st session Thirty-ninth Congress, 1160–1833.)

This law was designed to secure equality for all citizens in the civil rights enumerated in it.

But it encountered opposition in Congress, not merely from democrats, but from republicans, on the ground that the Constitution did not authorize it. (Volume 70, Globe, 1st session Thirty-ninth Congress, 1266–1291. Appendix, 156.)

In the debate March 9, 1866, Mr. Bingham said:

The enforcement of the bill of rights, touching the life, liberty, and property of every citizen of the republic, within every organized State of the Union, is of the reserved powers of the States, to be enforced by State tribunals and by State officials. (Page 1291.)

He proceeds to say that the civil-rights bill—

Should be the law of every State, by the voluntary act of every State. The law in every State should be just. It should be no respecter of persons. It is otherwise now.

He then proceeds to say:

I should remedy that, not by an arbitrary assumption of power, but *by amending the Constitution of the United States*, expressly prohibiting the States from any such abuse of power in the future.

On the 28th of February, 1866, in discussing one of the many propo-

sitions to amend the Constitution, all having substantially the same object, he said:

The proposition * * * is simply a *proposition to arm the Congress of the United States* with the power to enforce the bill of rights as it stands in the Constitution.

One day less than two months after the civil-rights bill had been opposed in Congress as unconstitutional the provisions of the fourteenth amendment were first discussed in this House, on the 8th of May, 1866.

The "great commoner"—Thaddeus Stevens—in opening the debate, after stating the provisions of the first section, said:

I can hardly believe that any person can be found who will not admit that every one of these provisions is just. They are all asserted in some form or other in our declaration or organic law. But the Constitution limits only the action of Congress, and is not a limitation on the States. This amendment supplies that defect, and allows Congress to correct the unjust legislation of the States so far, that the law which operates upon one man shall operate equally upon all. (Globe, vol. 71, p. 2459.)

And he proceeded to show that this would not leave the civil-rights law subject to repeal, but ingraft it on the Constitution in principle and effect.

Mr. Finck said of the first section:

If it is necessary to adopt it in order to confer upon Congress power over the matters contained in it, then the civil-rights bill is clearly unconstitutional. (Page 2461.)

Mr. Boyer said:

The first section embodies the principles of the civil-rights bill. * * * The fifth and last section of the amendment empowers Congress to enforce by appropriate legislation the provisions of the article. (Page 2467.)

On the 9th of May, 1866, Mr. Broomall said:

It may be asked why should we put a provision in the Constitution which is already contained in an act of Congress? [Civil-rights law.] The gentleman from Ohio, Mr. Bingam, may answer this question. He says the act is unconstitutional. * * * While I differ from him upon the law, yet it is not with that certainty of being right that would justify me in refusing to place the power to enact the law unmistakably in the Constitution. (Page 2498.)

Mr. Shanklin said of the amendment:

There are two prominent and distinct ideas contained in this proposition. The first idea is to strike down the reserved rights of the States, those rights which were declared by the framers of the Constitution to belong to the States exclusively. * * The first section * * is to strike down those State rights and invest all power in the General Government. (Page 2500.)

Mr. Raymond said of the first or civil-rights section:

It was first embodied in a proposition introduced by Mr. Bingham in the form of an amendment to the Constitution, giving to Congress power to secure an absolute equality of civil rights, and is still pending. Next it came before us in the form of a bill, (the civil-rights bill,) by which Congress proposed to exercise precisely the powers which that amendment was intended to confer, and to provide for enforcing against State tribunals the prohibitions against unequal legislation. I regarded it as very doubtful whether Congress, under the existing Constitution, had any power to enact such a law. And now, although that bill became a law, it is again proposed to so amend the Constitution as to confer upon Congress the power to pass it. I was in favor of securing an equality of rights to all citizens; all I asked was that it should be done by the exercise of powers conferred upon Congress by the Constitution. And so believing, I shall vote for this proposed amendment to the Constitution. (Page 2502.)

The debate in the Senate is equally explicit. On the 30th of May, 1866, Mr. Doolittle said:

The celebrated civil-rights bill, which was the forerunner of this constitutional amendment, and to give validity to which this constitutional amendment is brought forward, and which, without this constitutional amendment to enforce it, has no validity, &c. (Page 2896.)

Mr. Hendricks, on the 4th of June, said:

The sixth and last section provides that Congress shall have power to enforce by appropriate legislation the provisions of this article. When these words were used in the amendment abolishing slavery they were thought to be harmless, but during this session there has been claimed for them such force and scope of meaning as that Congress might invade the jurisdiction of the States, rob them of their reserved rights, and crown the Federal Government with absolute and despotic power. As construed, this provision is most dangerous. (Page 2940.)

It had been claimed by Mr. Yates that by virtue of the thirteenth amendment "every man in the United States, without regard to color, * * was a citizen," clothed with "the muniments of freedom, the rights, franchises, privileges that appertain to an American citizen," and that Congress had power by "appropriate legislation" under the provisions of the thirteenth amendment "to enforce" that, as well as secure equal rights, civil, as well as political. (Pages 1255, 3037.) And this has been so held as to civil rights by Justice Swayne in the case of the United States *vs.* Rhodes.

In the same debate, my distinguished friend the able gentleman from Vermont [Mr. POLAND] then in the Senate, said of the fourteenth amendment:

The great social and political change in the Southern States wrought by the amendment of the Constitution abolishing slavery and by the overthrow of the late rebellion renders it eminently proper and necessary that Congress should be invested with the power to enforce this provision throughout the country, and compel its observance. * * State laws exist * * in direct violation of these principles. Congress has already shown its desire and intention to uproot and destroy all such partial State legislation in the passage of what is called the civil-rights bill. The power to do this has been doubted. * * No doubt should be left existing as to the power of Congress to enforce principles lying at the very foundation of all republican government. (Page 2961.)

The debates show that these distinct assertions of the powers to be conferred on Congress by the fourteenth amendment were not controverted. No one ventured to deny them.

The debates on the thirteenth and fifteenth amendments are explicit in corroborating this purpose.

The fifteenth amendment, as the gentleman from Georgia [Mr. STEPHENS] says, does not "bestow or even declare any rights;" but it does prohibit States from denying the equal right of suffrage. Congress has power to enforce the prohibition by "appropriate legislation." Here is the power to enforce a prohibition.

A similar power is given in the same words in the fourteenth amendment.

The power of Congress to enact the civil-rights bill and to pass this is settled by the reasoning and authority of adjudicated cases and elementary writers. Among these I will cite Smith *vs.* Moody, 26 Indiana, 307; *in re* A. H. Somers, by the chief justice of the court of appeals of Maryland; United States *vs.* Rhodes, decided in 1867 in the United States circuit court Kentucky, 7 American Law Register, N. S., 233; *in re* Turner, by Chase, C. J., *habeas corpus*, Maryland, 1867; *ex parte* Griffin, by Chase, C. J., circuit court Virginia, 1869, 8 American Law Register, N. S., 365; Farrar's Manual Constitution, 448; Paschal's Annotated Constitution, 273, 290.

In the case of the United States *vs.* Rhodes, decided by Mr. Justice Swayne, there was an indictment under the civil-rights act of April 6, 1866, for burglary, in Kentucky, and the court took jurisdiction on the ground that the statute of Kentucky discriminated against colored citizens in the law of evidence. The court held that the civil-rights act was authorized, and gave the jurisdiction by virtue of the thirteenth amendment to the Constitution, and that

Under this act all persons stand upon a plane of equality before the law as respects the civil rights therein mentioned and intended to be protected, without distinction as to race or color or any previous condition of slavery." (7 American Law Register, N. S., 233.)

In *ex parte* Griffin, decided by Chief Justice Chase in the circuit court of the United States for the district of Virginia, in 1869, the question arose whether the third section of the fourteenth amendment to the Constitution did *ex proprio vigore* remove from office persons lawfully appointed before its adoption though they may have been ineligible to hold such office under the prohibition it contains.

The Chief Justice, in holding the negative, said:

The object of the amendment is to exclude from certain offices a certain class of persons. Now it is obviously impossible to do this by a simple declaration, whether in the Constitution or in an act of Congress. * * For in the very nature of things it must be ascertained what particular individuals are embraced by the definition before any sentence of exclusion can be made to operate. To accomplish this ascertainment, and insure effective results, proceedings, evidence, decisions, and enforcement of decisions more or less formal are indispensable; *and these can only be provided by Congress.*

Now the necessity of this is recognized by the amendment itself in its fifth and final section, which declares that "Congress shall have power to enforce by appropriate legislation the provisions of this article."

There are, indeed, other sections than the third to the enforcement of which legislation is necessary; but there is no one which more clearly requires legislation in order to give effect to it. The fifth section qualifies the third to the same extent as it would if the whole amendment consisted of these two sections. (8 American Law Register, N. S., 365.)

In construing the fourteenth amendment we may properly, as Blackstone says, consider "the old law, the mischief, and the remedy."

That is, to ascertain the "remedy intended to be provided" by this amendment it is proper to know the "mischiefs complained of or apprehended," the "existing or anticipated evils." (United States *vs.* Rhodes, 7 Am. Law Reg., 247.)

These evils have been stated by Kent; by Justice Swayne; they were pointed out in the debates in Congress on the civil-rights bill and on the fourteenth amendment. (2 Kent Com., 281–282, note; United States *vs.* Rhodes, 7 Am. Law Reg., 247; Globe, vol. 70, 1st sess. 39th Cong., pp. 1160–1833.)

Mr. Justice Swayne, referring to the era of slavery up to the time of emancipation, says:

Slaves were imperfectly, if at all, protected from the grossest outrages by the whites. Justice was not for them. The charities and rights of the domestic relations had no legal existence among them.

In a note to Kent it is said the law in Louisiana—

Not only forbids any person teaching slaves to read or write, but it declares that any person using language * * * or making use of any sign or actions having a tendency to produce discontent among the free colored population, * * * or who shall be knowingly instrumental in bringing into the State any paper, book, or pamphlet having a like tendency, shall on conviction be punishable with imprisonment or death, at the discretion of the court.

And Justice Swayne said of the period after emancipation:

The shadow of the evil fell upon the free blacks. They had but few civil and no political rights in the slave States. Many of the badges of the bondman's degradation were fastened upon them. * * * The States had always claimed and exercised the exclusive right to fix the status of all persons living within their jurisdiction.

The evil then was that civil rights were unsafe when left to the States where the spirit of slavery still lived.

This evil Congress attempted to remedy in part by the civil-rights law of April 9, 1866. But, as the constitutionality of this had been called in question, Congress designed to remove all doubt, and to give Congress power to secure equal civil rights to all.

This purpose was incorporated in the fourteenth amendment, concluding with the unmistakable words: "Congress shall have power to enforce this article by appropriate legislation."

It is incredible that Congress in submitting the fourteenth amendment, or the people in adopting it, did not clearly intend to give to Congress the power claimed; did not intend to provide an effectual remedy for the evils which had been so fully and frequently denounced. The civil-rights act is dated April 9, 1866.

The final action of Congress in proposing to the people the fourteenth amendment was June 13, 1866. It was adopted by the people through the State Legislatures.

And then the civil-rights law was re-enacted April 20, 1871, by many of the members of Congress who had voted to submit the amendment. This contemporaneous construction of the amendment carries more than persuasive force as to its true meaning. (Paschal's Annotated Constitution 277, note 274; McCulloch *vs.* Maryland, 4 Wheat., 401; United States *vs.* Rhodes, 7 American Law Register, 233.)

But Congress has repeatedly added to the persuasive force of this construction—by the "enforcement" act of May 31, 1870, February 28, 1871; and, finally, the Ku-Klux act of April 20, 1871. (Appendix Congressional Globe, March, 1871, p. 70.)

All these acts proceed upon the idea that if a State omits or neglects to secure the enforcement of equal rights, that it "denies" the equal protection of the laws within the meaning of the fourteenth amendment.

The Slaughter-house cases (16 Wallace, 81) concede the power to pass this bill.

The means provided in this bill of enforcing the Constitution are fully authorized.

The power to secure equal civil rights by "appropriate legislation" is an express power; and Congress, therefore, is the exclusive judge of the proper means to employ. This has been settled in McCulloch *vs.* Maryland, 4 Wheaton, 420; Priggs *vs.* Pennsylvania, 16 Peters, 539; *Ex parte* Coupland, 26 Texas, 387; 1 Story Const., 432; Moore *vs.* Illinois, 14 Howard, 20.

These cases show, too, that Congress may enforce generally the provisions of the Constitution.

I will not now discuss the expediency of this measure. It is always expedient to do right. Equality of civil and political rights, of all rights which exist under law, is simple justice.

The fourteenth amendment was designed to secure this equality of rights; and we have no discretion to say that we will not enforce its provisions. There is no question of discretion involved except as to the means we may employ. The real question is, whether, knowing our duty, we will perform it. The colored man is a citizen of the republic, and his rights, equally with all others, this Congress must respect if the Constitution is to be obeyed.

Mr. POLAND. I yield the remainder of my time to the gentleman from Ohio, [Mr. MONROE.]

Mr. MONROE. Mr. Speaker, I will not attempt to discuss any of the legal or other of the graver questions which have been under discussion by much abler men than myself. I leave these to gentlemen who are better qualified to enlighten the House in regard to them. But I desire to say a word upon a single point; a point which, although very familiar, is nevertheless very suggestive and full of instruction when followed to its logical consequence in connection with a subject like this.

Now, sir, if any member of this House were asked to-day what is the greatest single element of national strength, of national prosperity, of national permanence and power, I believe he would unhesitatingly answer that the greatest element of strength to every nation is the universal good-will and confidence of all classes of its citizens. This is fundamental; the granite rock upon which all real national greatness must rest. Every nation that would be strong, every nation that would be permanent, must have the universal good-will and confidence of all classes, from the highest to the lowest, from the strongest to the weakest. That kind of confidence the Government must possess in the heart of the citizen which grows out of the knowledge on his part that there is both the disposition and the ability on the part of the Government to protect him; to protect him in his person, to protect him in his home, to protect him in his family, and in every natural and legal right which he may possess.

And, sir, it is necessary for the Government to pursue such a course as shall give assurance to every human being in the land—to the very humblest, to the poorest, to the most friendless citizen—that it will protect him; that it will search him out in his obscurity, in his poverty, and in his friendlessness, and will hold out over him the broad shield of the Constitution and the laws. It is necessary, it is indispensable to national greatness and power, that this impression should be made upon the heart of every citizen, so that every citizen may have confidence that the Government under which he lives will accomplish this result. It is indispensable to national permanence and national existence.

How can any country prosper without patriotism, and how can patriotism exist unless this confidence in the Government be found in the heart of the citizen? I know, sir, that poets describe patriotism as a glorious Ariel-like creature which floats in the clouds; but you and I, Mr. Speaker, know, and this House knows, that the real patriotism of this world, the patriotism that will wear, the patriotism that is good for anything for national defense, the patriotism which can give and take battle and risk life in defense of country, is not the patriotism which lives in the clouds, but the patriotism which stands upon solid ground, dusty though it be. Patriotism, to be worth anything, must have its foundation in equal protection under the law. It must spring out of hearts that cherish confidence in the Government, which cherish affection for the Government, that feel the interests of the citizen is the same as the interests of the Government; that its prosperity is their prosperity; its danger is their danger; that anything which threatens its glory and power also threatens them, however humble they may be. When the citizen feels this, then if the country which cherishes and protects him happens to be exposed to dangers from abroad or dangers from home the very blood in his heart runs lightning at the thought of peril to the Constitution and laws which afford him refuge.

Why, sir, there is no example in history of any nation sinking into decay which still possessed the confidence and affection of its citizens. And there is no example of continued prosperity on the part of any government which lost this confidence.

We are coming back again, sir, to the very fundamental principles of government. This is the very starting-point of national prosperity. If we fail to secure equal protection under the laws, we fail wholly; and it is the duty of Congress, whatever else it may or may not do, whatever else it may pass or fail to pass, that it shall leave no doubt in the mind of any human being in the land as to the question whether equal protection of the laws shall be extended to all classes of citizens.

I know, sir, that our friends on the other side of the House have spoken of this case as if it were an exceptional one. They tell us that the class of persons that this bill is designed to protect is a peculiar class, and it is not quite so easy to apply constitutional protection to them. They are a different people; they are a different race; a strong prejudice exists against them; they have lately been in a condition of servitude which subjected them to degradation and contempt, and there are peculiar difficulties in the way of carrying out constitutional protection in a right line for the benefit of this class of people. Well, sir, what does all this amount to, except that this class of people are peculiarly exposed to hazard; that their rights are in special danger?

The very fact that there are peculiar difficulties in the case shows that it is one which demands peculiar attention. The very fact of these difficulties, of these prejudices, of this contempt, shows that this is a class of our citizens which specially demands the protection of the law. And surely gentlemen do not mean to tell us or to argue that the fact that this class is in peculiar danger, and is peculiarly exposed, is a reason why the protection of the law should not be extended to them.

We must remember that no chain is stronger than its weakest link. And it is just here—in the case of a despised class, in the case of a class that is exposed to so many dangers—it is just here that the justice and the power and the disposition of the Government to protect are tested. It is only in cases of this kind that it can be tested. Why, sir, the rich, the strong, the powerful can get along well enough under almost any kind of government. The worst governments have made such men comfortable, but it is only a good and strong government that can protect those classes which specially need protection; those classes that are poor, that are friendless, that have been in servitude and lately emerged from it. It is just here that the character of the Government, its disposition, its power to do right, is fully tested. And if we fail here, if we cannot protect this class, then it may be concluded that we cannot protect anybody. This is the point to which some of our friends appear not to do justice. I say if we fail to protect the colored race upon this continent we thereby do actually fail to protect anybody. For it is a matter of principle; it is not a question as to who the individual is that is to be protected or is to fail of it. If we fail to protect the poorest, the humblest, the most despised, the blackest man, we fail totally. If we sin in one point, we are guilty of all. The principle falls to the ground, and we know not whose the loss may be; although it may be the question to-day whether the colored man's rights shall be protected, to-morrow the question may be different. And if we establish the miserable precedent that we must withdraw the ægis of protection from over the head of the poorest and blackest man, which of us shall be sure of continuing to enjoy the benefit of that protecting ægis over his own home? None of us. If we once put into our history this wretched precedent of leaving the heads of the poor to be pelted by the pitiless storms of persecution and obloquy, we leave our own homes and our own families exposed to the next attack.

[Here the hammer fell.]

Mr. BRIGHT. Mr. Speaker, I propose to speak to the reason, not to the prejudice of this body. I propose candidly to offer some reasons why I cannot vote for this bill.

Without further preliminaries, I will state that I believe it is unconstitutional, impolitic, and unnecessary; fraught only with mischief to the parties whose interests it is intended to subserve. If the fact be, Mr. Speaker, that the bill is unconstitutional, and if that fact can be demonstrated here, that ought to be the end of the question. And I presume Representatives upon both sides of the House, concurring in the conviction or opinion that it is unconstitutional, will concede that this bill ought not to pass. They will, I have no doubt, manifest a patriotism that will show that they love the Constitution and their country more than they do any color, race, or previous condition of servitude. Permit me, then, Mr. Speaker, to invite the attention of this honorable body to a few candid remarks which I propose to submit to their consideration.

The friends of the bill base their argument for its support upon the fourteenth amendment, and upon the second section of the fourth article of the Constitution of the United States. The fourteenth amendment in its first paragraph declares a dual citizenship of the people of the United States: first, a citizenship of the United States; sec-

ond by a citizenship of the States. In the subsequent paragraph it provides certain prohibitions on the States; and I desire gentlemen to permit me to give emphasis to the language of the Constitution itself—prohibitions upon the States, not upon the individuals composing the States. These prohibitions are intended to protect the citizens of the United States against oppressive legislation on the part of the States. The plain import of the words can convey no other meaning. The language forbids the idea that it was intended to confer on Congress a grand police power over the social and domestic relations of the people of the States.

Now, Mr. Speaker, the first proposition to which I invite the attention of the House, and I hope that the distinguished chairman of the committee who has charge of the bill will feel himself called upon to answer the argument, is this: that the fourteenth amendment confers no new grant of power upon the Congress of the United States. I say, sir, that that question has been settled both by legislative and judicial precedents. I invite the attention of the distinguished chairman of the committee to this argument, and I wish no evasion of it. In the first place we have the legislative action of this body. Mrs. Woodhull as a memorialist asked of this honorable body that it would grant the right of suffrage to her sex. That memorial was referred to the Judiciary Committee, of which the distinguished Representative from Massachusetts [Mr. BUTLER] was a member at the time. That committee reported this as the construction they placed upon the amendment:

The clause of the fourteenth amendment, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States," does not, in the opinion of the committee, refer to privileges and immunities of citizens of the United States other than those privileges and immunities embraced in the original text of the Constitution, article two section four. The fourteenth amendment, it is believed, did not add to the privileges or immunities before mentioned, but was deemed necessary for their enforcement as an express limitation upon the powers of the States. It had been judicially determined that the first eight articles of amendment of the Constitution were not limitations on the power of the States, and it was apprehended that the same might be held of the provision of the second section, fourth article.

Further on they say:

The words "citizens of the United States," and "citizens of the States," as employed in the fourteenth amendment, did not change or modify the relations of citizens of the State and nation as they existed under the original Constitution.

What was the legislative action of gentlemen upon the other side of the House on that subject? They voted for the reception of that report of the committee and against the report of the minority, headed, as I believe it was, by the distinguished gentleman from Massachusetts.

Mr. BUTLER, of Massachusetts. I made a minority report.

Mr. BRIGHT. I know you did; I have it before me. A similar memorial was presented to the Senate by Miss Susan B. Anthony, and was referred to the Judiciary Committee of that body. That committee reported unanimously in favor of adopting the same opinion as that of the majority of the House committee, and they followed the same line of argument.

In the Slaughter-house cases the Supreme Court of the United States says this:

In the case of Paul *vs.* Virginia the court, in expounding this clause of the Constitution, says that "the privileges and immunities secured to citizens of each State in the several States by the provision in question are those privileges and immunities which are common to the citizens in the latter States under their constitution and laws by virtue of their being citizens.

The constitutional provision there alluded to did not create those rights which it called privileges and immunities of citizens of the States. It threw around them in that clause no security for the citizen of the State in which they were claimed or exercised, nor did it profess to control the power of the State governments over the rights of its own citizens.

Its sole purpose was to declare to the several States that whatever those rights, as you grant or establish them to your own citizens, or as you limit or qualify or impose restrictions on their exercise, the same, neither more nor less, shall be the measure of the rights of citizens of other States within your jurisdiction.

But they say further, and to this I ask especial attention:

Of the privileges and immunities of the citizens of the United States, and of the privileges and immunities of the citizen of the State, and what they respectively are we will presently consider, but we wish to state here that it is only the former which are placed by this clause under the protection of the Federal Constitution, and that the latter, whatever they may be, are not intended to have any additional protection by this paragraph of the amendment.

If, then, there is a difference between the privileges and immunities belonging to a citizen of the United States as such and those belonging to the citizen of the State as such, the latter must rest for their security and protection where they have heretofore rested; for they are not embraced by this paragraph of the amendment.

Is that satisfactory? Is that the law of the land? Is that the proper construction to place upon the fourteenth amendment of the Constitution of the United States? If so, the question is settled, and this body cannot override that decision without overriding the Constitution of the United States. I ask some gentleman on the other side to meet this question fairly, and say whether it was intended by that amendment to confer any new powers upon the Congress of the United States. The Supreme Court has settled that question; and if you were here, gentlemen, empanneled as a jury, you would be compelled by your oaths to decide that it conferred no new powers upon Congress.

But I add another authority. The Supreme Court, in the case of Bradwell *vs.* The State of Illinois, following up the decision in the Slaughter-house cases, made this decision:

The protection designed by that clause, (fourteenth amendment,) as has been repeatedly held, has no application to a citizen of the State whose laws are complained of. If the plaintiff was a citizen of the State of Illinois, that provision of the Constitution gave her no protection against its courts or its legislation.

Thus, after deliberation and review, the Supreme Court adhere to the construction given in the Slaughter-house cases.

I contend then, Mr. Speaker, that that is an end to the matter. If the passage of this bill would be unconstitutional, then where is the man who is bold enough to strike down the Constitution for the gratification of any prejudice or of any sympathy? If this bill is really an assumption of new powers by Congress, then its advocates are driven from the fourteenth amendment. Where, then, will they make their stand? It must be in article 4, section 2, of the Constitution of the United States, which is as follows:

The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

I will endeavor to show that that will not avail them. Justice Story (2 Const., sec. 1806,) in commenting on that subject, said that clause was only intended to confer on the citizens of each State general citizenship; that it confers no privileges or immunities above or beyond the privileges and immunities enjoyed by the citizens of the State which they make the home of their adoption. In short, the adopted citizen was to be made equal to the home-born citizen. It neither created nor defined the privileges and immunities of the citizens, but left them to look to their respective State governments as the sources from which they flow. If this be so, and I maintain that it is, it effectually excludes the legislative jurisdiction of Congress over the subject.

The authorities upon the subject can be piled mountain-high, and I will here call attention to some of them. In the first place to the opinion of Attorney-General Bates; second, to Webster's opinion in the case of Bank *vs.* Primrose; third, Corner *vs.* Elliott, 18 Howard; fourth, Canfield *vs.* Coryell, 4 Washington's Circuit Court Reports, 380; fifth, the report of the Judiciary Committee of the House of Representatives January 30, 1871; sixth, report of the Judiciary Committee of the Senate January 25, 1872; seventh, the Slaughter-house cases, 16 Wallace; eighth, Bradley *vs.* Illinois, reaffirming the opinion in the Slaughter-house cases; ninth, the people who have everywhere exercised the power in all the States in the adoption of their constitutions; tenth, the legislatures have exercised these powers, granting charters to counties, towns, schools, railroads, and denying the right to vote to women, minors, ministers, felons, non-residents, and exercising power over the life, liberty, and property of their citizens. The States were governments in fact, so recognized by the Constitution of the United States, the true guardians of the immunities and privileges of their own citizens.

This great truth runs back of the Constitution of the United States and is the tap-root of American liberty, striking deep into the heart of our State and municipal governments, which lie nearest to the people, and which can best understand and provide for their wants When this body assumes a protectorate over them, it assumes a power and prerogative which never can administer equal justice.

Not only the Southern, but the Northern States exercised the right of making descriminations amongst their own citizens, on the grounds of public policy.

Massachusetts prohibited intermarriage between the races. Maine prohibited in the same way intermarriage. Connecticut denied the elective franchise to men of the colored race, as did Pennsylvania and New Jersey, and also the right to testify in cases where a white man was a party. New York had a property qualification against colored men. Ohio, Indiana, Illinois, Michigan, Iowa, denied the ballot and intermarriage between the races and the right of colored men to give testimony against whites. The Southern States did the same. All the authorities, State and Federal, legislative and judicial, rise before the nation and interpose a bulwark against the passage of this act.

The only limitation upon this ancient right of the States to regulate their own domestic affairs is the fifteenth amendment, which prohibits the States from denying the right of suffrage to any citizen on account of race, color, or previous condition of servitude.

Again, if there is no authority under the fourteenth amendment, nor in the second clause of article 4 of the Constitution of the United States, where does it get the authority? Has it a common-law authority? Sir, that never was incorporated as a part of the law of the United States. It never has been pretended to be exercised as a part of the law of the United States.

I have said that it was impolitic to pass this bill. The colored man has everything to lose by it, and nothing to gain. There is no coercive power on the part of Congress toward the State to compel it to levy a tax for educational purposes. The laws of some of the States are now giving the colored people the benefit of education, pouring its beams of enlightenment upon the African race, by dividing the school funds in proportion to the scholastic population of the two races, although they are separated into different schools. Should Congress attempt to drive the Southern States, having separate common schools, to the wall, and attempt to force their tastes, and, if you please, their natural and conventional repugnance to color and race, into social contact, they will refuse to tax themselves for the support of such an educational system. This the whites can do in Tennessee, for they can vote three to one over the colored people.

But I have no time to dwell upon that part of the subject. I have said that this bill was unnecessary. What rights are now denied to the colored race? They have the freedom of the press, the freedom of speech, the freedom of the ballot, the freedom of office, the freedom of the courts, and the rights of property. All the avenues of power and office of this Government have been thrown wide open to them.

The constitutions of the State governments have opened the avenues to them and let them in. The Constitution of the United States has opened to let them in. All the gates are wide open to them. Even the White House is now set as a prize before the eye of the African. Sir, they have all the rights of the boasted Roman citizen, the right of holding slaves excepted. Still they clamor here.

Why, Mr. Speaker, and Representatives upon the other side of the House, their civil and political elevation is unparalleled in the history of nations. No nation of their race before has emerged from the broken chains and yoke of slavery, been habilitated, and raised to the grandeur of American citizens, in the same length of time. France and England emancipated their slaves, but the emancipated never dreamed that they should have letters of nobility, or should be elevated to the woolsack; never, never.

[Here the hammer fell.]

Allow me two minutes more. I desire to refer to the real wants of the negro. Sir, he can stand a little tobacco-smoke in a railroad car better than he can the tobacco tax. Let him strive to get that off, and then to get back the seventy millions of cotton tax which the Government has taken unconstitutionally from him and us. Not only that, but cut down your tariff, lay your pruning-knife to it, and cut off the redundant excrescences. Reform your currency, which by its fluctuations has recently destroyed one-third of the value of the cotton crop, the result in a large part of the bone and the muscle, the sweat and the toil of the colored man. The wail of starving women and children comes up from the South this day on the authority of Bishop Wilmer, those of their own race, in consequence of their destitution. Let them aid to roll off the incubus from the breasts of their people, and then they will have done a service to themselves and their race, instead of contending for first places in cars and places of amusement. The vast majority of their race are laborers in the rural districts. Not one in ten thousand, perhaps, wants to travel on a car. They had better keep away from saloons and theaters. They are too poor to pay for accommodations in first-class hotels, which receive their patronage mainly from the rich and the fashionable. Only a few exceptional cases of their color can bear the expense of luxurious indulgences, and they are generally to be found about cities, and would have us turn the Government upside down for their accommodation. As a race they have their own churches, school-houses, eating-houses, boarding-houses, and as they advance in wealth they may have their own theaters. Let them look at the real matters of grievance by the Government, and not be deceived by this civil-rights bill, so called.

Mr. TREMAIN. As a member of the Committee of the Judiciary, which reported this bill, I have taken some notes of the arguments made here, with a view, if time and opportunity were allowed, to answer those that have been presented by some of the opponents of this bill, and also to present some reasons in favor of its passage. The time, however, allowed by the special order for its discussion is drawing to a close. I am admonished by the able arguments we have heard upon this floor from the representatives of the African race, who are more immediately interested in the passage of this bill, that the vindication of the newly-created rights of citizenship conferred by the amendments of the Constitution, with all those privileges and immunities which follow from that new relation, may be more appropriately and properly left in the hands of the representatives of that race on this floor. I shall, therefore, yield to the gentleman from Florida, [Mr. WALLS,] another representative of that race.

Mr. WALLS. Mr. Speaker, the legend, Liberty, Equality, and Fraternity, has been well chosen in the past as the watch-word of people seeking a higher plane of manhood and a broader comprehension of the earthly destiny of the human family.

In our own time and country, under an advanced and advancing civilization, there is something more than sentiment in this glittering generality; and in addition to its broader definitions, as interpreted by the republicanism of the past, the leavening influences of even-handed justice gives it a tangible significance alike elevating to the citizens and institutions of the Republic.

In presenting the claim for equal public rights for all citizens, though in behalf of a class who, in common with another class, labor under disabilities, it is but just to assume that the effort is made more in the interest of the Republic and its progress than for the benefit of the people for whose immunity from wrong the movement is seemingly inaugurated.

The Federal Constitution, as amended, wisely provides, (Article 14, section 3:)

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, * * * * nor deny to any person within its jurisdiction the equal protection of the laws.

Admitting, for the sake of reaching the gist of the matter, that no State attempts to make or enforce laws abridging the privileges or immunities of citizens of the United States, yet it remains to be demonstrated whether there is a denial, tacit or direct, to any person in any State of the equal protection of all law. If so, then the spirit of the provisions of the fourteenth article of amendment to the Federal Constitution is violated, and there is need for the appropriate legislation for the enforcement of the same as provided for in section 5 of said article.

It may be said that there are no positive statutes prohibiting the enjoyment of all public rights by all citizens whose comfort and convenience may be lessened by such prohibition, and who tender the equivalent fixed by law or custom for public facilities.

But if it is found that this denial is made—and I apprehend it is easy of demonstration—by corporations or individuals who exist at the will of the State, then there is need of additional legislation to enforce the spirit of the provisions of the Federal Constitution as amended.

Men may concede that public sentiment, and not law, is the cause of the discrimination of which we justly complain and the resultant disabilities under which we labor.

If this be so, then such public sentiment needs penal correction, and should be regulated by law. Let it be decidedly understood, by appropriate enactment, that the individual rights, privileges, and immunities of the citizens, irrespective of color, to all facilities afforded by corporations, licensed establishments, common carriers, and institutions supported by the public, are sacred, under the law, and that violations of the same will entail punishment safe and certain.

We will then hear no more of a public sentiment that feeds upon the remnants of the rotten dogmas of the past, and seeks a vitality in the exercise of a tyranny both cheap and unmanly.

Let equity, founded in justice, honesty, and right—the soul and spirit of the law—be prescribed by the superior power of the Government, and the inferior compelled to obey. It is the duty of the men of to-day, in whose hands is intrusted the destiny of the Republic, to remove from the path of its upward progress every obstacle which may impede its advance in the future. And while respectfully demanding at their hands the removal of disabilities from colored citizens, we as earnestly commend that all other citizens enjoy the full rights of American citizenship, and that the last vestige of our internal revolution be removed by general amnesty.

That social equality will follow the concession of equal public rights is about as likely as that danger will come to the Republic because of a general amnesty. None present this unreasonable and unnatural argument but those whose political life depends upon the existence of a baseless prejudice wholly unworthy a civilized country and disgraceful to the American people; which, galvanized into fitful life at periodical intervals to accomplish the purposes of individuals whose patriotism and love of country is measured by personal aggrandizement, creates the imperative need of additional legislation.

That the relations of the races will be changed by meting out simple justice to the colored citizen, without infringing upon the rights of any class, is the clap-trap addressed to the ignorant and vicious, and finds no response in the American heart, which in its best impulses rises superior to all groveling prejudices.

In obedience to the exalted sentiment which impelled emancipation, enfranchisement, and equal political equality in the adoption of the thirteenth, fourteenth, and fifteenth articles of amendment to the Federal Constitution, the nation, through its law-makers, was true to itself and its traditions; and the wisdom of the legislation incorporated in the three several amendments which jointly provide that Congress shall have power to enforce the provisions of these articles by appropriate legislation, is fully worthy the lofty patriotism of the men who were morally brave enough to rise superior to a petty and unworthy prejudice of race, and who were as distinctively American in their representative character as any public men who have enjoyed the confidence and led the public sentiment of the American nation.

It is for this appropriate legislation we plead—for the enforcement of the spirit as well as the letter of the provisions, whose operation disenthralled and regenerated a nation of men who without this needed legislation will not have a fair opportunity to demonstrate their fitness for American citizenship, and to whom the channels of advancement in the legitimate pursuits of life will be forever closed, if by law, prejudice, or indisposition to enforce legal enactment they are branded as a special creation of God for a special inferiority in the physical structure of government. The gentleman from Kentucky, [Mr. BECK,] in an elaborate argument, for which he says he had made no preparation, assumes some very strong but not new positions.

He asserts that "no one on his side of the House wants the negro oppressed, or deprived of education or any other right guaranteed by the Constitution and laws." This declaration, coming from such an authoritative source, is some indication that the sudden conversion at Baltimore in July, 1872, has taken deeper root than we had been led to suppose from recent events, and that when the solemn pledge of the national convention of the party with which the gentleman affiliates was given in favor of equal civil rights it meant more than platform rhetoric. Still it is difficult to reconcile this kindly declaration with the animus of the gentleman's effort.

We have heard so much of the usurpations of Congress and of drifting toward centralism and consolidation whenever some pet idol of oppression is about to be broken that we need not become exercised for the safety of the country because the gentleman from Kentucky is not happy. The declaration is made that this movement would have been ridiculed by men of all parties ten years ago; to this might have been added, with perfect propriety, that emancipation and enfranchisement would have been ridiculed twenty years ago. This proves nothing but the excellence of the gentleman's memory and the tenacity with which he clings to the obsolete ideas of the past from which progressive men desire to be emancipated.

If the recent decision of the Supreme Court in the New Orleans

Slaughter-house case has any relevancy to this bill it is not as apparent to me as it seems to the gentleman who loves to linger in the legal atmosphere of that body while threatening dreadful things to the country and humanity generally.

As he seems to be lovingly attached to the emanations of this court and also refers to the Dred Scott decision, the key-note of which was that for more than a century previous to the adoption of the Declaration of Independence, negroes, whether slave or free, had been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior that they had no rights which the white man was bound to respect, that consequently such persons were not included among the *people* in the general words of that instrument, it may be proper to remind him and his associates on the other side of the House that if this New Orleans slaughter-house decision is relevant, which I do not concede by any means, that this nation, in its onward march to a broader, higher, and brighter civilization, will not halt any longer to admire the beauties of a Supreme Court decision now than at the time a perverted and blind public sentiment made the Dred Scott decision possible and awoke the nation to the duty of the hour. How well that duty has been performed the introduction of the bill under consideration sufficiently testifies.

This argument of the gentleman would doubtless be of more force in the courts of Kentucky than on the floor of Congress in the latter half of the nineteenth century.

One would suppose that a person born and partly reared and educated in a country which at that time was feeling the benign and grateful influence of the great Wilberforce, who gave his life to the amelioration of the human race, and inaugurated the prohibition of the African slave-trade in the British West India possessions, which culminated, twenty-six years later, in emancipation, would have imbibed some early notions of justice and humanity. But from the position assumed by the gentleman, even since his recent visit to the house of his ancestors, we are forced to the conclusion that the Scottish nature is not susceptible of early impressions, and that it takes its character from accidental surroundings at any period of life. Had the gentleman's footsteps tended toward Massachusetts in early life instead of Kentucky, he would doubtless to-day be standing with Wendell Phillips and other bright spirits of the old Bay State nobly battling for the very principles he now opposes.

We are duly grateful for the gentleman's magnanimity in refraining from incorporating an educational qualification in the statutes of Kentucky; and as it was not deemed advisable to do so prior to the enfranchisement of the colored race, we trust that our appeal for equal rights now will not displease the Legislature of that State. The tenth article of amendment, which the gentleman quotes among other things, sets forth that—

> The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people.

Now I would recommend that the gentleman bring his luminous and unbiased mind to a closer study of the Constitution, including all the amendments.

It is creditable to the gentleman's ability that this argument would have been just as conclusive against emancipation and enfranchisement as against civil rights, and it is a matter of congratulation that it will answer just as well for all purposes while there is need of effort for equal rights. The uncharitable aspersion cast upon the national civil rights convention, whose respectful memorial has been presented to Congress, does great injustice to five million people, who, as citizens of the republic, believe they enjoy the right of petition.

His expressed conviction that such conventions will be called in future to enforce miscegenation is alike unworthy the gentleman's intelligence and his experience.

To show the disposition of the controlling influence in some of the States, I take the liberty to call the attention of the House to parts of the inaugural of the governor-elect of Virginia, who, in obedience to the sentiment which succeeded in the late election in that State, declares that he does not hesitate to affirm—

> That so encouraging has been the progress of the last four years; so clearly developed by the past are the obligations of to-day, that if we are but guided by Providence and go forward with courage tempered with forbearance, and if no Federal legislation shall interfere to disturb the relations between the races, we cannot fail to bring our great experiment to a successful and prosperous issue.

He says:

> Recent events prove the futility of attempting to array the colored race as a political combination upon a principle of antagonism between the races; and that as a result of the war the burden of the State is greatly increased in the education of the freedmen and support of colored paupers, * * * * thus leaving Virginia intrusted with the care and education of more than a half-million of the "wards of the nation" without being provided with the means of executing the trust.

He deplores the interference of the Federal Government with the public schools of the State as certain to result in their destruction; and says:

> Yet justice, humanity, the colored race, and the country at large demand that the national Government should furnish the State with the necessary means to educate them.

The position of the governor-elect is somewhat mixed, but I deduce from his premises the fact that he classes the entire colored population of Virginia in the category of paupers, intrusted to the care of the State, or who at least depend upon the State for education and sustenance, and for whom he asks assistance from the General Government, while deprecating the interference of Federal legislation.

Just how he expects this assistance without Federal legislation is not very clear to me. He would convey the idea that an effort has been made to array the colored people of Virginia in hostility to the whites, while the fact is fresh in the memories of all intelligent men that the cry of "A white man's party," and "Virginia for Virginians," was raised by himself and those operating with him in the late gubernatorial canvass. I cannot permit these prejudiced assertions in regard to the colored people of Virginia to go unchallenged; and in their name and in the name of all the colored people of the Republic I protest. No stronger argument has yet been offered for equal civil rights than this of the governor-elect of Virginia.

If the great experiment in that State has had no more prosperous and successful issue in four years than the reduction of the whole colored population to the condition of paupers, then I submit that the interference of Federal legislation will do much toward relieving Virginia of this humiliating trust, by furnishing the facilities instead of the means to educate these "wards of the nation," who are such a burden to that State.

The civil-rights bill now under consideration will open the common schools, lauded so highly by the governor-elect, destroy the prejudices which stand in the way of the indiscriminate employment of the brain-power and bone and sinew of the colored people of Virginia, and give to that Commonwealth, instead of half a million of paupers, the same number of substance-producing, tax-paying citizens.

Instead of issuing bonds to Virginia in trust for the colored people of that State, let Congress give her a chance to modify her customs in conformity with the requirements of the age, and the next four years will be more fruitful of good results than has been the same period just past. In the interest of liberty, justice, humanity, and of the Republic, we ask equal public rights, and concede the equity of general amnesty.

I submit that this question should be taken from the domain of partisan feeling and grappled on the plane of statesmanship, of patriotism, and the common good of the whole country.

Mr. HERNDON obtained the floor, and said: I yield for a moment to the gentleman from Kentucky, [Mr. CROSSLAND.]

Mr. CROSSLAND. I desire to submit and have printed the following amendment:

> Strike out in lines 15, 16, and 17 of the first section these words: "And the person or corporation so offending shall be liable to the citizens thereby injured, in damages to be recovered in an action of debt."

Mr. HERNDON. Mr. Speaker, I wish in the first place, as preliminary to the argument, to incorporate as part of my remarks the pending bill and amendment, which are as follows:

A bill to protect all citizens in their civil and legal rights.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whoever, being a corporation or natural person, and owner, or in charge of any public inn; or of any place of public amusement or entertainment for which a license from any legal authority is required; or of any line of stage-coaches, railroad, or other means of public carriage of passengers or freight; or of any cemetery, or other benevolent institutions, or any public school supported, in whole or in part, at public expense or by endowment for public use, shall make any distinction as to admission or accommodation therein, of any citizen of the United States, because of race, color, or previous condition of servitude, shall, on conviction thereof, be fined not less than $100 nor more than $5,000 for each offense; and the person or corporation so offending shall be liable to the citizens thereby injured, in damages to be recovered in an action of debt.

SEC. 2. That the offenses under this act, and actions to recover damages, may be prosecuted before any territorial, district, or circuit court of the United States having jurisdiction of crimes at the place where the offense was charged to have been committed as well as in the district where the parties may reside, as now provided by law.

Amendment proposed to be submitted by Mr. MORRY.

Add to the end of section 2 the following:

And all of the provisions of the act entitled "An act to protect all persons in the United States in their civil rights, and furnish the means of their vindication," passed April 6, 1866, relating to the enforcement of civil rights, with the penalties therein provided, are made applicable in the prosecution of offenses under this act.

Mr. Speaker, the bill and amendment now under discussion presents one of the gravest, most difficult, and comprehensive questions that can arise under our complex system of government. It is, perhaps, unfortunate that it should be forced upon Congress for consideration so soon after the fundamental changes that have been made in our organic law. But it is upon us, and we must summon whatever of courage and ability we may command and meet it like men.

The paramount and controlling question in this measure is: Has Congress the constitutional power to assume jurisdiction and legislate upon the class of subjects presented by it within the States? If the General Government can take cognizance of this character of legislation within the States, then they may do so in advance of any real necessity therefor, whether it be expedient or not—in fact, may do so to restrain and limit the action of the States upon such subjects. Hence the important inquiry is: Does such authority exist in the Constitution? It is not even pretended that such authority existed prior to the adoption of the last three amendments, and if it exists at all, it will be an innovation upon the fundamental principles of our Government as heretofore expounded and understood.

But to properly understand and estimate the changes that have been wrought by these last amendments, I propose to briefly notice some of the more general elementary principles that underlie our system of government, their incompatibility with them, and then

discuss the changes made themselves. By this method of inquiry we may find the reasons for the changes that have been deemed necessary, and be the better able to judge of the extent to which they were intended to go.

Mr. Speaker, our system of government, as presented and understood by its framers, was measured in the extent of its powers by, and rested upon, the Constitution as its basis. This Constitution was a written compact by and between the States that signed it. The States that became parties were free and sovereign, and capable of contracting. The Constitution, when signed, embraced all political powers delegated to the General Government, and became the general agent of the States and people to the full extent of its granted powers. The people, before the States or Federal Government were established, possessed all political power in themselves in the aggregate. Sovereignty resided in the people. They created governments for their own benefit. They yielded up a portion of their political powers for the general good of all. They were the source and true fountain of power. Their representative will was reflected in every line of the State and Federal Constitution. The General Government is emphatically a federal, as contradistinguished from a national or consolidated government. And the wisdom of it consists in the perfect distribution of the political powers confided to it. It is strictly a representative, elective, federal government, resting upon concurrent rather than numerical majorities, with the most perfect system of checks, vetoes, and limitations upon power ever before attained in any other government. Under the compact with the States—the Constitution—the Federal Government became in its own orbit coequal with the States. That is, no State was superior to it, but, in fact, it required three-fourths of the States to alter or amend it. The States were not dependent upon the Federal Government for any political power; nor was it dependent upon any one of them after the compact was agreed to. Each became independent in its own appropriate sphere of action and usefulness. Therefore, the States and people reserved all that mass of political powers not granted to the Federal Government, and precise limits were assigned to the Federal Government, beyond which it could not go without an infringement upon those political powers retained by the States and people. And the same compact that gave life to the Federal Government also restrained the States from exercising or ever resisting certain powers which they had parted with in the agreement. Hence, it followed that all that combination of rights and political powers not delegated to the Federal Government, and the exercise of which were not prohibited or retained to the States by it, were, by the compact itself, recognized to stand upon equal dignity, and entitled to the same security and protection as any power or right specially mentioned in the Constitution itself. The object and purpose of this distinct recognition of those rights and powers reserved to the States and people is obvious. The Commonwealths or States that entered into the compact to form a general government well understood the value of home government, and determined that the powers of the States in their corporate capacity should not be diminished or be liable to disintegrate. Local customs, habits, laws, and institutions were to continue as before, and be fostered and encouraged. They were believed to be the life of the States primarily, and of the General Government ultimately. They were to produce the full measure of political manhood and citizenship in the States. They recognized their controlling effect in strengthening that bond of attachment between the citizen and his Government, the ruler and the ruled, without which the strongest of governments, ostensibly, must, in fact, be weak. Local self-government was not only first in the order of time, but in the order of merit. It was the most valuable to the people, and, in their estimation, if either had to fail, it would be better that the Federal Government perish than their local governments. Each State regulated its own local affairs in its own way, independent of other States or the General Government, and in this the people took part, held this right very dear, and never intended that it should be usurped or taken from them.

In fact if what the framers of the Constitution did is any index to what they intended, nothing was more distant from their purpose than to establish a consolidated form of government, which in effect should be a unit, and the States the fractions of that unit, or that the States should bear the same relation to the General Government that the parishes and counties within the States did to the States themselves. They intended that the General Government should be strictly federal, composed of independent integral members, sovereign in themselves. The confederation of these free Commonwealths in a more perfect union increased their strength, secured their protection, and opened a wider field for usefulness, without degrading or destroying the local rights and powers reserved to these States. In fact the mightiest struggles in Western Asia and Europe, for more than two thousand years, have been on the part of the former to overthrow and that of the latter to maintain the great federal idea in government. History so abounds with examples of this kind, and especially that of the Middle Ages and the earlier English history, that the framers of the Constitution must have been well advised of its importance. But to illustrate this idea more concisely, I read from the speech of Mr. Calhoun on the force bill, and his quotation from Mr. Palgrave, of England, on the same subject, both of whom are not unknown to fame:

In reviewing the ground over which I have passed, it will be apparent that the question in controversy involves that most deeply important of all political questions, whether ours is a federal or a consolidated Government; a question on the decision of which depend, as I solemnly believe, the liberty of the people, their happiness, and the place which we are destined to hold in the moral and intellectual scale of nations. Never was there a controversy in which more important consequences were involved, not excepting that between Persia and Greece, decided by the battles of Marathon, Platea, and Salamis; which gave ascendency to the genius of Europe over that of Asia; and which, in its consequences, has continued to affect the destiny of so large a portion of the world even to this day. There are often close analogies between events apparently very remote, which are strikingly illustrated in this case. In the great contest between Greece and Persia, between European and Asiatic polity and civilization, the very question between the federal and consolidated form of government was involved. The Asiatic governments, from the remotest time, with some exception on the eastern shore of the Mediterranean, have been based on the principle of consolidation, which considers the whole community as but a unit, and consolidates its powers in a central point. The opposite principle has prevailed in Europe. Greece, throughout all her states, was based on a federal system. All were united in one common but loose bond, and the governments of the several states partook, for the most part, of a complex organization which distributed political power among different members of the community. The same principles prevailed in ancient Italy; and if we turn to the Teutonic race, our great ancestors—the race which occupies the first place in power, civilization, and science, and which possesses the largest and the fairest part of Europe—we shall find that their governments were based on the federal organization, as has been clearly illustrated by a recent and able writer on the British constitution, (Mr. Palgrave,) from whose writings I introduce the following extract:

"In this manner the first establishment of the Teutonic states was effected. They were assemblages of septs, clans, and tribes. They were confederated hosts and armies, led on by princes, magistrates, and chieftains; each of whom was originally independent, and each of whom lost a portion of his pristine independence in proportion as he and his compeers became united under the supremacy of a sovereign, who was superinduced upon the state, first as a military commander, and afterward as a king.

"Yet, notwithstanding this political connection, each member of the state continued to retain a considerable portion of the rights of sovereignty. Every ancient Teutonic monarchy must be considered as a federation; it is not a unit, of which the smaller bodies-politic therein contained are the fractions, but they are the integers, and the state is the multiple which results from them. Dukedoms and counties, burghs and baronies, towns and townships, and shires, form the kingdom; all in a certain degree strangers to each other and separate in jurisdiction, though all obedient to the supreme executive authority. This general description, though not always strictly applicable in terms, is always so substantially and in effect; and hence it becomes necessary to discard the language which has been very generally employed in treating on the English constitution. It has been supposed that the kingdom was reduced into a regular and gradual subordination of government, and that the various legal districts of which it is composed arose from the divisions and subdivisions of the country. But this hypothesis, which tends greatly to perplex our history, cannot be supported by fact; and instead of viewing the constitution as a whole, and then proceeding to its parts, we must examine it synthetically, and assume that the supreme authorities of the state were created by the concentration of the powers originally belonging to the members and corporations of which it is composed."

Mr. Speaker, viewed by the light of history, contemporaneous debates, and the constitutions of both the State and General governments, it would be difficult if not impossible to escape the conclusion that ours was in fact, and so intended to be, a Federal government—one whose political power began with the people as the source, and from there flowed up to the States, and through them as independent organizations to the Federal government; that is, power is traced from the extremities to the center. But a consolidated government is the reverse of this. There the whole government is a unit, with political power fixed and located in the center, from which center, as the fountain or source, political power flows out through the divisions or States down to the people. The difference in the two forms of government and the method of operating them is manifest. In the one the States and people, holding certain checks and limitations, exercise a wholesome restraint upon the action of the general agent; they become the principals; they demand a strict account of the trusts confided to their agent, and they become the forum for the settlement and the judges of all political differences that may arise in the administration of the powers with which the agent is clothed. In the other the opposite condition exists; the seat of power being central, and the government being a unit, the officials become the exponents of that power, and dispense it to strengthen their positions; all accountability from the official to the people ceases. The officials under this character of government exactly change positions with the people, for they become the principals and the people their agents, or, rather, they become the masters and the people the servants. It grasps all subjects of legislation, however local, disregards all State sovereignty, State-rights, and State lines except to mark geographical divisions of territory, and decides all political questions by its own officials as the appropriate tribunal. The people become the mere subjects, dependent upon the good-will of their ruler. They cease to be trusted with self-government, and so far as its influence is concerned to effect good, the ballot-box might be abolished. The locality of political power, as well as the method of ruling, are reversed in the two forms of government. The federal depends upon the good-will, attachment, and love of the governed, and rules through the virtue, intelligence, and capacity for self-government of the people. The consolidated denies the capacity of the people for self-government, will not trust them to aid in the administration of public affairs, declines their advice and counsel, believes them the best subjects when they labor most and grumble least, and rules them with an eye singly to the perpetuation of official power. One rules by love, the other by force. It requires no effort to see that the federal form of government was the one instituted and established by our fathers, and intended to be perpetuated to coming generations. It was the noblest, wisest, and best that had been made by man.

From what has been said concerning the delegated and reserved powers and the limitations upon the exercise of the power of the General and State government, it is clear that no such power as is invoked by this measure could be exercised by Congress while the Constitution with its twelve amendments remained unchanged. And it is equally clear that no such power can now be exercised, unless the most fundamental principle in our system of government has been so far altered as to allow it. For the federal idea is the rock upon which the Consititution itself rests. It is the very life of free government. It is that which, above every other principle, demonstrates the capacity of man for self-government. To overthrow this principle is to defeat the ultimate end of our Government; to relapse into a consolidated despotism, the most cruel and oppressive of all forms of government.

I therefore take it that those who framed and succeeded in adopting the last three amendments to the Constitution did not deliberately intend to overthrow the great leading fundamental principles of our Government, but to make such changes in the organic law as would meet the exigencies produced by the late war. The amending power of the Constitution, it should always be remembered, is remedial in its nature and effects; was never intended to be used as a sword to destroy, but as a shield to protect the original Constitution in its true application to the development of our civilization. Hence the amendments ought to receive an interpretation harmonizing, if practicable, with the fundamental and pervading principles of the entire Constitution.

It is unnecessary to trace the causes that led to and provoked the late war. It is sufficient to say that the insecurity of slave property under the Constitution, and the failure to obtain satisfactory guarantees for its future protection, was the primary and immediate cause that hastened the rupture. This was vital to the South, and if denied or disregarded could not fail to produce the very result that happened—a resort to those sovereign powers held by the States as coequals, and by which they became the judges of the extent of the infraction and of the mode and measure of redress. At the end of this sanguinary struggle, the four million of slaves (about whom the contest was waged) were declared to be free *de facto*, by virtue of the war measures of the Government, and so continued until the adoption of the thirteenth amendment, when they became free *de jure*. The object of this amendment was clearly to give freedom to the four million of slaves, but in its scope will secure the freedom of all people from servitude under our Government.

It sanctified those acts done by force and without law, prior to that date, under the pressure of war. This amendment trenched upon the federal system, and invaded to a certain extent the sovereign powers and rights of the States. For it not only denied the right to protection of slave property, but denied the right to the property itself, seized the four millions of slave property, worth four billions of money to the owners, without compensation, and cut off redress either by the owners themselves or the States that were pledged under the compact to afford protection. To this extent the sovereign powers and rights of the States were invaded and absorbed, and what the States lost the General Government gained. The colored people who were declared free by the amendment were not citizens of the States or General Government; and they could not under our system become so except by the separate action of the States. The States delayed to act in the matter, and this delay provoked the action of the General Government. The right to clothe persons with citizenship within the States was one of the reserved rights of the States; it had never been delegated to the Federal Government, and was distinctly recognized in the Constitution itself. The fourteenth amendment was an invasion of the rights of the States to a very large extent. It was intended to cover a mass of legislation, such as civil-rights measures and reconstruction laws, which were not even claimed to be authorized by the Constitution, but were openly violations of its letter and spirit, and which were based upon certain undefined war powers that were said to be inherent in the self-preserving powers of the Government. It laid heavy taxes upon the people of the States without representation; fixed a public debt on the people of eleven States without consent or the power to question it, and decided void all claims for the compensation of slave property. It stripped the States of many rights that were regarded as sacred and even necessary to their independence, and sanctioned, as it was contended, the use of military force in the place of civil remedies to enforce the laws enacted thereunder.

After the colored people became free and the rights of citizenship were enforced, they were still far from the political plane occupied by the whites. They could not vote. The States had always held the exclusive power to confer this great privilege; and it was one of the noblest prerogatives that belonged to sovereignty. This privilege was regarded with so much jealousy and sacredness that it was believed to be the motive power, the great fly-wheel that balanced and regulated the machinery of the State governments. It was thought to furnish a strong check to power. And, therefore, the States cautiously delayed to act, and this delay induced the adoption of the fifteenth amendment, which changes the franchise, which was a privilege accorded by the States, into a right, and a right that emanates from the General Government as well as from the States. It extends not only to the colored people but to all, in its effect, within the jurisdiction of the Government.

These three amendments have, so far as they have gone, trenched upon the reserved rights of the independent sovereign States; deprived the States of the power to abridge them, and to this extent the States have ceased to be the coequals of the General Government; have lost those necessary powers, and the loss of them to the States has lost them to the true federal idea of government itself. The effect has been to infringe upon the federal system. It has gained nothing as a federal system; it has lost in its fundamental idea—in the very essence of its self-preserving power. The gain of those powers lost by the States has been to the consolidating tendency of the Government as distinguished from the federal. For it should be remembered that the wisdom, strength, and vitality of the federal idea is to maintain the States in their independent and sovereign prerogatives and powers; with all local institutions in full force, with unrestricted power to regulate all their internal and local affairs in their own way. If these independent communities should be stripped of all these necessary rights, they would cease to exist as such, and the Federal Government as such would perish with them. The constant tendency of all governments is to grow stronger; to invade the sources of power and absorb all rights and powers reserved to themselves; and this Government is no exception to the rule. It is hastening toward consolidation. Force is rapidly taking the place of that love and attachment which should constitute the rule in governing a free people. It is difficult to draw the line of demarkation between the rights of the States still left and those of the General Government, including those lately absorbed by the three amendments to the Constitution.

But the question before us requires that it be traced as accurately as possible. If we are in fact under a wholly consolidated government, then the power does exist for the passage of this bill. If, however, we have not reached the exact point where the federal system ceases, and the consolidated commences, that point where all sovereign and reserved powers of the States disappear, and the solid unity of a centralized government begins, there may still remain debatable ground. And whether the advancement that the Government has made by these organic changes toward a national centralized form has been sufficient to render it more consolidated than federal, I shall not now attempt to determine. But what I want to show is, that although the federal system has been infringed, that it has suffered loss, that this loss has been a loss to liberty itself, that still there remains intact much of the old federal system, which rests upon the Constitution for its security and protection, and which it is our bounden duty to maintain in all its purity and force. For even a part of the federal system, with a part of the consolidated ingrafted, is far better than the whole of the consolidated. And in my opinion the liberties of the people of this country depend upon which one of these systems shall be adopted and enforced.

It is claimed by the friends of the bill that the authority exists in the first section of the fourteenth amendment for its passage, and which reads as follows:

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

This section was drawn in question in the late Slaughter-house cases from Louisiana and received a judicial construction by the Supreme Court, (16 Wallace,) and a few extracts will serve to show the extent to which the amendment was intended to go toward the taking away or restoring of State rights. I read from 16 Wallace, page 73:

To remove this difficulty primarily, and to establish a clear and comprehensive definition of citizenship which should declare what should constitute citizenship of the United States and also citizenship of a State, the first clause of the first section was framed.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

The first observation we have to make on this clause is, that it puts at rest both the questions which we stated to have been the subject of differences of opinion. It declares that persons may be citizens of the United States without regard to their citizenship of a particular State; and it overturns the Dred Scott decision by making all persons born within the United States and subject to its jurisdiction citizens of the United States. That its main purpose was to establish the citizenship of the negro can admit of no doubt. The phrase "subject to its jurisdiction" was intended to exclude from its operation children of ministers, consuls, and citizens or subjects of foreign states born within the United States.

The next observation is more important, in view of the arguments of counsel in the present case. It is that the distinction between citizenship of the United States and a citizenship of a State is clearly recognized and established. Not only may a man be a citizen of the United States without being a citizen of a State, but an important element is necessary to convert the former into the latter. He must reside within the State to make him a citizen of it, but it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union.

It is quite clear, then, that there is a citizenship of the United States and a citizenship of a State, which are distinct from each other, and which depend upon different characteristics or circumstances in the individual. We think this distinction and its explicit recognition in this amendment of great weight in this argument, because the next paragraph of this same section, which is the one mainly relied on by the plaintiffs in error, speaks only of privileges and immunities of citizens of the United States, and does not speak of those of citizens of the several States. The argument, however, in favor of the plaintiffs rests wholly on the assumption that the citizenship is the same and the privileges and immunities guaranteed by the clause are the same.

The language is, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." It is a little remarkable, if this clause was intended as a protection of the citizen of a State against the legislative power of his own State, that the word citizen of the State should be left out, when it is so carefully used, and used in contradistinction to citizens of the United States, in the very sentence which precedes it. It is too clear for argu-

ment that the change in phraseology was adopted understandingly and with a purpose.

Of the privileges and immunities of the citizen of the United States, and of the privileges and immunities of the citizen of the State, and what they respectively are, we will presently consider; but we wish to state here that it is only the former which are placed by this clause under the protection of the Federal Constitution, and that the latter, whatever they may be, are not intended to have any additional protection by this paragraph of the amendment.

If, then, there is a difference between the privileges and immunities belonging to a citizen of the United States as such and those belonging to the citizen of the State as such, the latter must rest for their security and protection where they have heretofore rested; for they are not embraced by this paragraph of the amendment.

Also from the same report, in the same cases, I read from the dissenting opinion of the minority of the court, both the majority and minority agreeing upon the precise construction of the first section of the fourteenth amendment, as follows:

The first section of the fourteenth amendment is alone involved in the consideration of these cases. No searching analysis is necessary to eliminate its meaning. Its language is intelligible and direct. Nothing can be more transparent. Every word employed has an established signification. There is no room for construction. There is nothing to construe. Elaboration may obscure, but cannot make clearer, the intent and purpose sought to be carried out.

1. Citizens of the States and of the United States are defined.

2. It is declared that no State shall, by law, abridge the privileges or immunities of citizens of the United States.

3. That no State shall deprive any person, whether a citizen or not, of life, liberty, or property without due process of law, nor deny any person within its jurisdiction the equal protection of the laws.

A citizen of a State is *ipso facto* a citizen of the United States. No one can be the former without being also the latter; but the latter, by losing his residence in one State without acquiring it in another, although he continues to be the latter, ceases, for the time, to be the former. "The privileges and immunities" of a citizen of the United States include, among other things, the fundamental rights of life, liberty, and property, and also the rights which pertain to him by reason of his membership of the nation. The citizen of a State has the same fundamental rights as a citizen of the United States, and also certain others, local in their character, arising from his relation to the State, and in addition those which belong to the citizen of the United States, he being in that relation also.

There may thus be a double citizenship, each having some rights peculiar to itself. It is only over those which belong to the citizen of the United States that the category here in question throws the shield of its protection. All those which belong to the citizen of a State, except as to bills of attainder, *ex post facto* laws and laws impairing the obligation of contracts, are left to the guardianship of the bills of rights, constitutions, and laws of the States respectively. Those rights may all be enjoyed in every State by the citizens of every other State by virtue of clause 2, section 4, article 1, of the Constitution of the United States as it was originally framed. This section does not in anywise effect them; such was not its purpose.

It is clear from the construction placed upon this section by the Supreme Court, the entire court agreeing touching the exact point under consideration, that a second or double citizenship was established by the first section of the amendment; and that the two citizenships depended upon different characteristics and looked to different sources for protection. The office of this amendment was not to destroy or curtail that citizenship that already existed under the exclusive action of the States. Nor was it to deprive the States of the power to still secure and protect it in their own way. But the true intent was to add something new, to enlarge the scope of Federal power, to create a distinct citizenship of the United States as contradistinguished from that of the States, and in that might be independent of the action of the States. It was to supply a supposed defect which had always been regarded by many able statesmen as a source of weakness in our system. When this new citizenship was established it was quite natural that it should depend upon the creator of it for security and protection. For the same reason the citizenship of the States should depend upon the laws and constitutions of the States for its protection. The two in this sense are not incompatible. Both may exist and neither destroy the other, the national citizenship being under the exclusive jurisdiction of the Federal Government, and that of the States under theirs.

And the interpretation given to clause 1, section 2, article 4, of the Constitution, which is as follows: "The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States," is not inconsistent with the view here entertained; but rather adds force to it.

In Washington's Circuit Court Reports, volume 4, page 371, Mr. Justice Washington says:

The inquiry is, what are the prvileges and immunities of citizens of the several States? We feel no hesitation in confining these expressions to those privileges and immunities which are fundamental; which belong of right to the citizens of all free governments, and which have at all times been enjoyed by the citizens of the the several States which compose this Union, from the time of their becoming free, independent, and sovereign. What these fundamental principles are it would be more tedious than difficult to enumerate. They may all, however, be comprehended under the following general heads: protection by the Government, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety, subject, nevertheless, to such restraints as the Government may prescribe for the general good of the whole.

These are the rights that appertain to the citizens of each State as individuals, and are declared to be fundamental. And the Supreme Court again, in the case of Ward *vs.* The State of Maryland, in speaking of this subject say:

They are, in the language of Judge Washington, those rights which are fundamental. Throughout his opinion they are spoken of as rights belonging to the individual of a State. They are so spoken of in the constitutional provision which he was construing. And they have always been held to be the class of rights which the State governments were created to establish and secure.

And again, quoting from the opinion of the Supreme Court, 16 Wallace, page 77, when referring to clause 1, section 2, article 4, of the Constitution, they say:

The constitutional provision there alluded to did not create those rights, which it called privileges and immunities of citizens of the States. It threw around them in that clause no security for the citizen of the State in which they were claimed or exercised. Nor did it profess to control the power of the State governments over the rights of its own citizens. Its sole purpose was to declare to the several States that whatever those rights, as you grant or establish them to your own citizens, or as you limit or qualify, or impose restrictions on their exercise, the same, neither more nor less, shall be the measure of the rights of citizens of other States within your jurisdiction.

And the court, further remarking on those rights and the ultimate extent to which this amendment was intended to reach, say:

It would be the vainest show of learning to attempt to prove by citations of authority that up to the adoption of the recent amendments no claim or pretense was set up that those rights depended on the Federal Government for their existence or protection, beyond the very few express limitations which the Federal Constitution imposed upon the States—such, for instance, as the prohibition against *ex post facto* laws, bills of attainder, and laws impairing the obligation of contracts. But, with the exception of these and a few other restrictions, the entire domain of the privileges and immunities of citizens of the States, as above defined, lay within the constitutional and legislative power of the States, and without that of the Federal Government. Was it the purpose of the fourteenth amendment, by the simple declaration that no State should make or enforce any law which shall abridge the privileges and immunities of *citizens of the United States*, to transfer the security and protection of all the civil rights which we have mentioned from the States to the Federal Government? And where it is declared that Congress shall have the power to enforce that article, was it intended to bring within the power of Congress the entire domain of civil rights heretofore belonging exclusively to the States?

All this and more must follow, if the proposition of the plaintiffs in error be sound. For not only are these rights subject to the control of Congress whenever in its discretion any of them are supposed to be abridged by State legislation, but that body may also pass laws in advance, limiting and restricting the exercise of legislative power by the States in their most ordinary and usual functions, as in its judgment it may think proper on all such subjects. And still further, such a construction, followed by the reversal of the judgments of the supreme court of Louisiana in these cases, would constitute this court a perpetual censor upon all legislation of the States on the civil rights of their own citizens, with authority to nullify such as it did not approve as consistent with those rights as they existed at the time of the adoption of this amendment. The argument, we admit, is not always the most conclusive which is drawn from the consequences urged against the adoption of a particular construction of an instrument. But when, as in the case before us, these consequences are so serious, so far-reaching and pervading, so great a departure from the structure and spirit of our institutions—when the effect is to fetter and degrade the State governments by subjecting them to the control of Congress, in the exercise of powers heretofore universally conceded to them of the most ordinary and fundamental character—when, in fact, it radically changes the whole theory of the relations of the State and Federal governments to each other, and both these governments to the people, the argument has a force that is irresistible, in the absence of language which expresses such a purpose too clearly to admit of doubt.

We are convinced that no such results were intended by the Congress which proposed these amendments, nor by the Legislatures of the States which ratified them.

Having shown that the privileges and immunities relied on in the argument are those which belong to citizens of the States as such, and that they are left to the State governments for security and protection, and not by this article placed under the special care of the Federal Government, we may hold ourselves excused from defining the privileges and immunities of citizens of the United States, which no State can abridge, until some case involving those privileges may make it necessary to do so.

From those explicit views of the courts it will be seen, that all those rights, privileges, and immunities described, and which are declared to be fundamental, appertain to the citizens of the States, and are under the exclusive jurisdiction of the State governments.

To give a construction to the amendment that would embrace all the rights, privileges, and immunities that belong to citizens of the General Government as such, and also embrace all those that belong to the citizens of the States, with the necessary power in Congress to follow them up to their full extent, and protect them by legislation, would be to overthrow the federal system of government, which rests upon its "free, sovereign, and independent" members. The States would be left without any of those substantial constituent elements of political power that go to make up sovereignty, and the federal system would cease to exist for the want of free local governments to support it. But the inquiry will be made, if a citizen of a State can claim all of these rights, privileges, and immunities, and protection for them under the Constitution, bill of rights, and laws of each State, then what are those that appertain to the citizen of the United States? Most of those rights may be found in the Constitution, amendments, and treaties with foreign nations. I will mention a few of them that belong to the citizen of the General Government: The right of *habeas corpus*, trial by jury, free exercise of religious worship, free speech, free press, to assemble and discuss public measures, to petition for redress, security against unreasonable searches and seizures, to go and return from the seat of Government, access to the courts, to have counsel, to hold office, aid in administering public affairs, access to the several Departments of Government for business, to all navigable waters and sea-ports within the jurisdiction of the Government, to protection for life, liberty, and property on the high seas or within the jurisdiction of foreign governments, the right to become a citizen of any State by residence therein, to be exempt from servitude, the right to vote, and of "not being deprived of life, liberty or property without due process of law." All of these, and others not enumerated, may be now asserted by a citizen of the United States, and be secured in them by the whole power of the Government, though such person be not a citizen of any State.

There are two conditions of citizenship. In the one case he may be a citizen of both by being a citizen of one. In the other, by being a citizen of the one he has the right to become a citizen of the other by actual residence. And accordingly as a person accepts the

one condition or the other all those privileges, rights, and immunities attach. And it does not matter that the person be colored or of the African race; he occupies no higher place than the white race.

The powers of the General Government, therefore, can only be invoked and brought to bear to protect the rights, immunities, and privileges of that national citizenship that lies within its appropriate sphere. And if these are not infringed or violated by the States, no legislation will be necessary on the part of Congress. This view maintains the dignity of our Federal system of Government, without doing violence to the amendment itself.

And the conclusion here reached will be greatly strengthened when it is remembered that some of the leading statesmen of the republican party, who even go so far as to deny all State sovereignty yet declare in favor of State rights; drawing a distinction between State rights and State sovereignty, repudiating the latter and sustaining the former.

In a speech delivered by Senator MORTON at Athens, Ohio, August 23, 1873, in laying down the doctrines of his party on this subject, he is reported to have said:

THE TRUE NATIONAL IDEA.

Now, what do I oppose to this doctrine? I assume that this Government was formed by the people of the United States in their aggregate and primary capacity. I assume that instead of there being thirty-seven nations there is but one; instead of there being thirty-seven sovereignties there is but one sovereignty. There is a vast body of State rights guaranteed and secured by the Constitution of the United States—by the same Constitution that created and upholds the Government of the United States; that these State rights have the same guarantee that the rights of the national Government have, are equally entitled to the protection of the Supreme Court, and that one set of rights is just as sacred as the other.

Some confound the ideas of State sovereignty and State rights as being one and the same thing, and seem to suppose that State rights are only consistent with State sovereignty; while I assume that State rights are consistent with national sovereignty, and are safest under protection of the nation.

The Constitution gives one class of rights to the Government of the United States. They are specified, and they carry with them the powers that are necessary to their full execution and enjoyment. The rest are to be held and enjoyed by the States, or reserved to the people.

THE CONSTITUTION THE AGREEMENT OF THE NATION.

The States have their rights by the agreement of the nation. That seems to be the important truth that is so often overlooked—that the rights of the States, sacred and unapproachable, are so by the agreement of the nation as much as are the powers that are conferred upon the Government of the United States.

In the consideration of this question we must reflect that the nation had assembled in convention in 1787 and there formed a government, there declared what rights should be given to the national Government, and what rights should be reserved to the States; and that in either case the grant and guarantee are an act of national sovereignty by the whole people in convention assembled. When we shall embrace this idea fully all the danger of centralization will pass away, though we discard the idea of State sovereignty.

SENTIMENT OF NATIONALITY.

The idea that we are a nation—that we are one people—should be a plank in the platform of every party. It should be the central idea of American politics, and every child should be, so to speak, vaccinated with this idea, that he may be protected from the political distemper that has brought such calamity upon our country. The man who does not possess the sentiment of nationality is intellectually and morally weak in many of the great positions and trials of life.

It is an element of strength and courage to feel that you belong to a great nation—especially to a nation that loves liberty better than any other, and is not surpassed in wealth, power, and valor. Two men met in Paris during the war, and were introduced. One said, "I am a citizen of the United States;" to which the other replied, "I am a citizen of Virginia, sir," "Ah, Virginia; that is a small part of my country, that has been a good deal cursed with slavery and the abstractions of State rights."

When the mind of the nation is fully saturated with the sentiment of nationality—that we are but one people—there will be no danger, though our boundaries come to embrace the entire continent.

THE FAR-REACHING INFLUENCE.

What the sun is in the heavens, diffusing light, and life, and warmth, and by its subtle influence holding the planets in their orbits and preserving the harmony of the universe, such is the sentiment of nationality in a people, diffusing life and protection in every direction, holding the faces of Americans always toward their homes, protecting the States in the exercise of their just powers, and preserving the harmony of all.

We must have a nation. It is a necessity of our political existence. We should cherish the idea that while the States have their rights, sacred and inviolable, which we should guard with untiring vigilance, never permitting an encroachment upon them, and remembering that such encroachment is as much a violation of the Constitution of the United States as to encroach upon the rights of the General Government, still bearing in mind that the States are but subordinate parts of one great nation—that the nation is over all, even as God is over the universe.

Here is the doctrine announced that this is a national and not a Federal Government; that there exists but one sovereign power, that of the national Government, and that the States possess no sovereignty. No statesman has gone further than this toward consolidation. Still, with these ultra views he declares that there is a vast body of rights belonging to the States that are sacred and inviolable and resting upon the guarantees of the Constitution for their preservation. As to what those rights belonging to the States are has been fully shown from the highest authority, and it is fair to infer that those rights were referred to by the speaker as constituting that mass that belonged to the States. Hence it follows that it would be repugnant to the plainest principles of the Constitution, as well as violative of the Federal system itself, for the General Government to invade the domain of the States and take jurisdiction of that class of legislation which is within the exclusive control of the States.

Examine the subjects mentioned in this bill, and then apply the construction given the first section of the fourteenth amendment, and answer if Congress can take cognizance of them. Is legislation by Congress on these subjects necessary to protect the citizen of the national Government in his privileges, rights, and immunities as defined by the Supreme Court? Did it intend to control the States in regulating their hotels, places of entertainment and amusement, their public carriers of passengers and freights, their cemeteries, almshouses, asylums, and churches, and their public schools, or those endowed for public use? These subjects are strictly local in their character, are within the exclusive jurisdiction of the States, and constitute a part of those rights that should be held sacred and inviolable under the Constitution. There could not well be concurrent authority exercised over them. The rule is, when Congress takes jurisdiction the States lose it. And if jurisdiction is assumed over these local subjects, then what others remain that would not fall under the same power? The right once conceded to extend thus far, and who will set bounds to this grasping power? If these are drawn within the scope and control of Congress, it is safe to predict that all others will be when interest or desire may dictate. Sir, if this measure becomes a law it will confirm that opinion which has been so much strengthened of late, that this Government cannot be arrested in its rapid march to final consolidation. There will be but one hope left to those who love our matchless Federal system, and that is that the Supreme Court will stay the storm which threatens to overthrow the fundamental principles of free government on this continent.

But, Mr. Speaker, let us very briefly notice some of the effects that will likely flow from the passage of this bill. That it will seriously affect, if not destroy, the patronage in many localities that now maintains places of entertainment, amusement, and benevolent institutions, I do not doubt. But the most serious blow will fall upon public the schools at the South. I believe it will crush them. Every Southern State has adopted a system of public schools, in all of which the negro is well provided for. The whites pay nearly all the taxes, and allow him to share equally with them in the benefits, but in separate schools. If the negro demands to mix with the whites in the schools, it will either be refused or the school itself will fall. No party can be kept in power that will favor equality in the schools. If it is to be forced upon them, then they will levy and collect no taxes, and although the school law will remain, the schools themselves will languish and die for want of money. Who will suffer most? The poor whites will suffer some, but they are thrifty and will join with the rest and provide private schools. But the negro, without money, and without economy to save any, will be unable to provide a school at his own expense, and the public schools will have failed, and thus he will prove to be the chief sufferer. It is said that this is caused by prejudice of the old masters against the colored race; that they are malicious toward them and seek to keep the negro under. There is one fact that proves how false this is, that the negroes generally prefer to labor for their old masters, and never seem more contented and happy than when they are under their control. There is a well-settled belief at the South that the negro, for want of social training, moral habits, and education, is unfitted to associate with the whites on terms of equality. No amount of persuasion, argument, or public law can dislodge this conviction, because it is based upon a life of experience with them, and a full knowledge of their nature and habits. The present race is believed there not to be the equal of the whites intellectually, morally, or socially. And the reasons for the difference are solid, abundant, and convincing. For many generations they have been slaves, without encouragement, training, opportunity, education, social life, or positions for public station, or even, in many cases, the blessings of Christian teaching, while the whites have enjoyed all these privileges with all the refinements of the arts and sciences, philosophy and religion, and have been brought up in the midst of a blaze of civilization. Under these influences the one race has steadily advanced while the other has remained in ignorance and darkness. No one can foresee what the negro race may be by a long course of training. He may equal the white race and surpass it in all those noble qualities that constitute true manhood; but I cannot, with my knowledge of him, believe that he will ever outstrip the whites. And if this be true, that he is not at the present the equal of the white race, why should he be forced upon terms of equality with the whites? It seems to be a malicious desire to inflict disgrace and punishment upon the whites, to wound their sense of social pride and manhood, to reduce them to the necessity of social intercourse with them.

This bill is a direct assault upon our social system. The negro race has never been admitted to it, because known to be unfitted for it. It is intended, in its consequences at least, either to crush out the present system of social life, or secure to the blacks terms of social equality. Man cannot attain his full measure of manhood except in society. He is impelled to embrace it by a law of his being. It lies at the foundation of government, and should be protected by it. And this, as a standard of society, whether high or low, exactly measures the real qualities of the government in which it exists. If it becomes disorganized and distempered, it will reflect its own image in the government itself. The overthrow of the fundamental principles that rule the social system in any country will produce anarchy in the government. Hence the wisest statesmanship has always been seen most prominent in securing and protecting the social system of communities. For when order and harmony reign here, peace and good government follow.

Then what can this great Government hope to gain by disturbing society in at least eleven States of the Union? When present and prospective evil will flow from it, why commit the act? It is useless and even malicious to say that, if the negro race is not the equal of the whites, the late masters are responsible for their igno-

rance. This is not true. The whole nation is responsible. But this affords no excuse to inflict either disgrace or punishment upon the present generation. We cannot amend the wrong, if done, by degrading our race now. I would not willingly deny the negro any legal or political right. I would not oppress him myself or willingly see him oppressed. I want to see him trained, educated, elevated, and qualified, intellectually and morally, to perform his duties as a good citizen. I will go as far toward securing his equal protection in all political rights before the law as the Constitution will warrant. But I am unwilling to legislate him into our social system on terms of equality with the white race. Nothing can be more social in its effects than the association of the two races at schools and places of entertainment, amusement, and benevolent institutions; and the measure will be viewed as nothing short of an insidious attack upon the rules of our social order that now debar the negro. Eight million whites cannot elevate the four million blacks to their standard by stooping in degradation to their level of superstition, vice, and ignorance. All history has proven that such attempts have resulted in the ruin of the stronger and more refined race. Those who put themselves upon terms of social equality with the negro race will remain on a level with them.

But there is one other consideration of much importance that ought not to be overlooked. This bill and the amendment fixes severe fines and penalties, cognizable exclusively in the Federal courts. These courts should, I admit, be co-extensive with the Federal laws; but they were intended under the Constitution to be courts of strictly limited jurisdiction. The real object of this limited power was to preserve the local courts of the States in the full and unrestricted exercise of all those judicial powers with which they are clothed in the States; for the rule is, that when the Federal courts take jurisdiction, Federal law being paramount, the State courts lose it. Each tribunal should be confined strictly to subjects within its appropriate jurisdiction. It is easy to see the dangerous effect of enlarging the powers and jurisdiction of these courts. By the late acts of Congress, since the war—those of 9th April, 1866, March 2, 1867, July 27, 1868, May 31, 1870, February 28, 1871, and April 20, 1871—the jurisdiction and powers of these courts have been so widened and enlarged that they have almost ceased to be courts of limited powers. It is now more difficult to enumerate those subjects over which they have not got jurisdiction than those that they exercise authority over. At this point more than any other the federal system of government has been attacked; for if the State tribunals are restrained and limited, and their powers absorbed by the Federal courts, just to the extent they are trenched upon does the federal system and the States themselves sustain a loss. This law will introduce a new rule—that of admitting citizens of the same State to litigate in the Federal courts—which will destroy, to the extent it goes, that limitation heretofore recognized upon their powers. But the amendment will add the penalties and method of enforcing the law found under the act of 9th April, 1866, that is, inflicting severe penalties by section 2, and by sections 8 and 9 authorizing the President to direct special courts to be held, and to enforce these rights by military power. I will read the law:

SEC. 2. Any person who, under color of any law, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party has been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding $1,000, or imprisonment not exceeding one year, or both in the discretion of the court.

* * * * * * *

SEC. 8. Whenever the President of the United States shall have reason to believe that offenses have been or are likely to be committed against the provisions of this act within any judicial district, it shall be lawful for him, in his discretion, to direct the judge, marshal, and district attorney of such district to attend at such place within the district, and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons charged with a violation of this act; and it shall be the duty of every judge or other officer, when any such requisition shall be received by him, to attend at the place and for the time therein designated.

SEC. 9. It shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation and enforce the due execution of this act.

Comment is unnecessary; these sections of law speak for themselves. Can our federal system be maintained where one of the co-ordinate branches of the Government—the judiciary—is placed under the domination of the sword in the hands of the Executive? Can liberty exist and a people be free under such an invasion of their local and sovereign rights, that are as sacred as the Constitution itself?

This law expresses a total want of confidence in the people. Their plainest rights are to be disregarded. The rule of law is to be again supplanted by that of the sword; peace and order to again yield to confusion and anarchy. Institutions that have stood the test of war and pillage are to bow before the encroachments of grasping political power. A people thus wrecked and despoiled will not fail to remember with scorn those who have plotted their ruin. These rights once conferred, with the courts open to enforce them, the negro in many localities will demand them to their fullest extent; and I do not doubt but that they will be refused. The blacks will then go to the towns and cities for refuge and to file legal proceedings. They will fear to return to their labor. Thus thousands will congregate in the towns and cities and become a charge upon the whites. Our poor-houses, jails, and penitentiaries will swarm with the most worthless of the race; and, sir, it will break up the labor system in such districts. It is not remunerative now, and the farming interest in the negro districts is to-day actually disintegrating, because the system of labor is so uncertain. This will make it more so. The effect will be felt in agriculture, commerce, and all the industries of the country. And who will prove the real sufferers? The black race. For as sure as this state of things shall come to pass, the whites will combine to introduce a new and better system of labor by the importation of whites, and thus in the end the severest blow will fall upon the negro you seek to benefit.

But, Mr. Speaker, I greatly fear that if this measure should become a law it will lessen that estimate and confidence that the country ought to have in the wisdom and integrity of her public men, as well as weaken that chord of attachment that binds the ruler to the ruled; that it will tend to if not destroy that love our people entertain for local self-government and home institutions, which are the very essence of free government; that it will cause the people to grow docile and contented under the overshadowing and destructive encroachments of national power; that it will unsettle the fundamental and essential ideas of our Federal Government, and show the possibility if not the fact of a radical change in the system; that Congress would invade the rightful domain of the States by its enactment, and curtail the lawful and constitutional powers of all State judicial tribunals, cannot admit of doubt; that no subject of State home legislation will be after this considered secure and beyond the reach of the General Government; that not only State-rights as a "body," heretofore so sacredly grounded on the Constitution, would perish, but State sovereignty will go down with them. The Constitution itself, with the great fundamental federal idea that has withstood so many revolutions of faction, public opinion, internal divisions, party annihilations, and sanguinary struggles, will remain a violated compact. And what can compensate for all this? Who will be able to pacify the outraged and indignant millions that will spring to their feet to condemn this fratricidal act? Who will offer a sufficient sacrifice to atone for the wide-spread ruin produced? Depend upon it, if this measure becomes a law, it will constitute a distinct plank in the next national presidential platform, and it will prove a millstone that will grind to powder the prospects of success of that party that carries the responsibility of its enactment.

Mr. PLATT, of Virginia, obtained the floor, and said: Mr. Speaker, I had intended to spend the twenty minutes allotted to me in discussing the merits of the measure now before the House; but at the request of the gentleman from Florida [Mr. PURMAN] I will, with the permission of the House, yield my time to him.

Mr. PURMAN. Mr. Speaker, I am profoundly grateful to the gentleman from Virginia for affording me this opportunity to put myself, in sentiment and expression, upon record on this question which so vitally affects our constituents.

It would seem to be a work of supererogation on the part of members to enter into the debate of this "civil and legal rights bill," judging from the platform of political principles enunciated by both parties in their late State and national conventions.

Both parties have declared, in solemn asseveration, their adhesion to the doctrine and the constitutional amendments guaranteeing to all the citizens of the United States equal and exact equality before the law, and the enjoyment of all the rights and benefits of government. My willing and confiding constituents, and all my honorable colleagues on this floor, sent here by a similar confiding constituency, expect, in the simplicity of hope, and from such overwhelming past assurances, that the honorable Representatives of both political parties in this Congress will emulate each other in securing the early passage of the act under consideration as a triumphant proof of the sincerity of their declarations. We have not doubted such sincerity; but are sanguine that on this question, as on all others, the conviction will prevail that "honesty is the best policy."

Here I might stop, in justice to the measure and our expectations; but a brief review of honest promises may give no offense, and may serve as a gentle stimulant to their speedy fulfillment.

SAMPLES OF PROFESSIONS FROM DEMOCRATIC CONVENTIONS.

New York democratic convention, October 4, 1871:

2. That we recognize the emancipation of the freedmen of the South, and their enfranchisement and perfect equality before the law, as the inevitable sequence of the civil war and of the overthrow of the rebellion against the Union; and we hold it to be the duty of all to sustain them in the enjoyment of their established rights, and to aid them in promoting their own welfare and the general prosperity of the country.

Ohio democratic convention, June 1, 1871:

2. * * * And that, as thus constructed, the democratic party pledges itself to a full, faithful, and absolute execution and enforcement of the Constitution as it now is, so as to secure rights to all persons under it, without distinction of race, color, or condition.

Tennessee democratic convention, May 9, 1872:

3. That we recognize * * * the equality of all men before the law, and an equal participation of all citizens in the rights and benefits of government.

Thus we see that the democratic party of New York, which had the distinction of furnishing the democratic candidate for the Presidency in 1872, and that same party in Ohio, which furnished the national platform of principles for that presidential campaign, led the

advance in these strides of progress toward justice and a better statesmanship, and other similar State conventions followed in the new wake, until the 10th day of July, 1872, the democratic party, in national convention assembled in the city of Baltimore, solemnly promulgated the following new articles of political faith, namely:

We, the democratic electors of the United States, in convention assembled, do present the following principles, already adopted at Cincinnati, as essential to just government:

1st. We recognize the equality of all men before the law, and hold that it is the duty of Government in its dealings with the people to mete out equal and exact justice to all, of whatever nativity, race, color, or persuasion, religious or political.

IS NOT WILLING TO DOUBT THEIR SINCERITY IN FACE OF THESE RECENT ASSEVERATIONS.

Would it not be unreasonable for any honest man, in view of the foregoing promulgations, to doubt that the democratic Representatives in this House, who were elected upon this Baltimore platform, are only awaiting with eagerness the first opportunity to make good their pledges to the country? I do not doubt them; neither will I say on this occasion, "Wherefore, by their fruits ye shall know them."

To the republican party, which now has such a large majority in both Houses of this Congress, our constituents confidently look for this last signal act which will clothe them in such complete panoply of citizenship that their fruition of all legal rights and privileges appertaining to all other citizens of the Republic will never more be questioned.

This act is essentially and speedily called for, as it is apparent to every thinking man that a semi-class of citizens, without certainty in the present or security for the future, are ever an element of weakness and demoralization in the country.

FROM THE POWER OF JUSTICE DELIVERANCE MUST COME.

But not from these considerations of mere policy is this last and crowning meed to be born. No! Justice, that voice of God, which spoke emancipation out of the thunders and lightnings of war, and decreed through the enlightened sentiment of this Government that next step of civil and political enfranchisement, is still potent in tones, and will not cease its appeal to the wisdom and conscience of the country until all the blessings emanating from the Constitution and laws shall fall as equally and impartially upon all citizens as does the sunlight of heaven.

When the republican party in Philadelphia, on June 6, 1872, in national convention assembled, declared the following as a portion of its platform of principles it was no new article of faith, expressed in new language, but one of its most vital principles of civil liberty and just government:

3. Complete liberty and exact equality in the enjoyment of all civil, political, and public rights should be established and effectually maintained throughout the Union by efficient and appropriate State and Federal legislation. Neither the law nor its administration should admit any discrimination in respect of citizens by reason of race, creed, color, or previous condition of servitude.

And when he who now stands ablest in war, truest in peace, and enshrined by the side of our first President in the hearts of his countrymen, gave to the country the following in his letter of acceptance, it contained the same honesty and tenacity of purpose as that memorable sentence, "I will fight it out on this line if it takes all summer."

WASHINGTON, D. C., *June* 10, 1872.

* * * * * * *

With the expression of a desire to see a speedy healing of all bitterness of feeling between sections, parties, or races of citizens, and the time when the title of *citizen* carries with it all the protection and privileges to the humblest that it does to the most exalted, I subscribe myself, very respectfully, your obedient servant,

U. S. GRANT.

RELIES UPON PROMISES OF THE REPUBLICAN PARTY FOR FINAL TRIUMPH.

Here I might stop again, and rest our cause, with a firm reliance upon the integrity and purpose of the republican party to consummate this last climax of justice toward this class of citizens, who were born upon American soil, obtained their freedom in the usual historical manner of all people—by valor and the law, and whose legal citizenship was intended to be equal and perfect by the Constitution that conferred it. Shall native-born citizens have less rights and benefits in their own country than those who come here invited and welcomed from foreign lands?

Shall hostile legislation in States be permitted to oppress any class of citizens on account of religion, nativity, politics, or complexion, or deny to any such class their inalienable rights, among which are life, liberty, and the pursuit of happiness, and thus defeat the very spirit and provision of the Constitution itself?

This great charter of our rights, which safely withstood the gigantic assaults of the sword, must not now be circumvented by the sounding technicalities of peace.

JUSTICE AGAINST STATE-RIGHTS.

And this brings our cause face to face with the question of State rights—or State sovereignty, which would be the most undisguised term. From this stand-point, the honorable gentleman from Kentucky [Mr. BECK] informed the House, the only opposition to this bill will arise.

Into the camp of State sovereignty, then, the friends of this measure must enter, if our opponents prefer to withdraw from the common field of justice and constitutional law.

But justice is the light from divine truth, more or less clear according to the understanding of the mind and the willingness of the conscience to be in unison with it, while State sovereignty is an ancient political speculation, exploded under the tread of modern events and the advent of the nation's dispensation.

The one is God's free landscape of nature for human philosophy to develop and produce fruit upon, while the other is the shattered fortification of a human theory, but no longer affording invincible protection to its few honest veterans.

Justice consists in doing no injury to men, or, in the copious language of the great expounder of the Constitution, Daniel Webster—

Justice is the great interest of man on earth.

It is the ligament which holds civilized beings and civilized nations together. Wherever her temple stands, and as long as it is duly honored, there is a foundation for social security, general happiness, and the improvement and progress of our race. And whoever labors on this edifice with usefulness and distinction, whoever clears its foundations, strengthens its pillars, adorns its entablatures, or contributes to raise its august dome still higher in the skies, connects himself in name, in fame, and character with that which is and must be as durable as the frame of human society.

FUNDAMENTAL CHANGES IN THE CONSTITUTION SINCE THE WAR.

Since the eventful civil war through which the country passed, great and fundamental additions have been made to the national Constitution, known as the thirteenth, fourteenth, and fifteenth amendments, and which were necessary as foundations upon which to re-establish society and civil and political governments in the disrupted section.

The greatest epoch in our history as a nation brought forth these amendments, which I hope will be the only lasting monuments of our fratricidal war.

In the light of these new amendments we must look for the wand to touch this vital question, whether or not the State has the right to array itself in legal hostility or discrimination against any class of its citizens.

Section 1 of the fourteenth amendment is as follows:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

I also quote the following extracts from a recent decision of the Supreme Court of the United States in the Louisiana Slaughter-house case:

It is quite clear, then, that there is a citizenship of the United States, and a citizenship of a State, which are distinct from each other, and which depend upon different characteristics or circumstances in the individual.

* * * * * * *

Not only may a man be a citizen of the United States without being a citizen of a State, but an important element is necessary to convert the former into the latter. He must reside within the State to make him a citizen of it, but it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union.

NATIVE-BORN CITIZENS.

In the light of this amendment, aided by this lucid decision of the Supreme Court of the United States—and in these we have authoritative guidance—let us examine the status of this class of citizens for whom their representatives are here pleading. These persons were born in the United States, and are therefore citizens of the United States by the irrevocable pronunciation of the Constitution and the Supreme Court of the United States.

The vast majority of these persons reside in the Southern States, are voters therein, and hold office, and therefore, by virtue of this same Constitution and decision, are also citizens of the State wherein they reside, and hereafter are subject only to such legislative regulations as may be prescribed for all classes of citizens therein.

The day and power of discrimination against them passed away when they became identified with the mass of citizens in their respective States.

When all are equal, where is lodged the right to enforce any condition of *inequality*? There is lodged in the breast or power of equals no such right; it would be might, and its exercise usurpation.

POWERS RESERVED TO THE STATES OR THE PEOPLE.

In the unexplored boundary of reserved powers belonging to the States is it pretended that any real authority, or even pretext, could be evoked which would justify, in view of the liberty and spirit of our institutions, any State legislature in the passage of such laws as follow:

SUPPOSED ACTS OF A STATE-RIGHTS LEGISLATURE.

An act to prohibit all white persons, not citizens of and not residing within the State, from being admitted and accommodated in any public inn.

An act to exclude all persons not possessed of real and personal property to the value of ten thousand dollars from all places of public amusement or entertainment for which a license from any legal authority is required.

An act to exclude all persons of the religious denomination known as Methodists from riding on any line of stage-coaches, railroads, or other means of public carriage of passengers or freight.

An act to prohibit all foreign-born citizens and their descendants from being buried in any public cemetery.

An act to exclude all children not clothed in velvet and such as have blue eyes from admission into any public school supported by public taxation.

An act to exclude all persons known as the "colored race" from public inns, cemeteries, and common schools supported by public taxation, and from equal accommodations with other persons, on all public stage-coaches, steamboats, and railroads.

RESPONSE TO SUCH PRETENDED LAWS.

Against the first five of these supposed laws the spirit and condemnation of the whole country would cry aloud.

The executive authorities of the other States would kindly call the attention of such State-rights legislature to section 2, article 4, of the Constitution of the United States:

The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.

Does the colored citizen of Massachusetts, sojourning in most of the Southern States, either for business or pleasure, receive or enjoy all the privileges and immunities of "citizens in the (those) several States?"

The religious press and sentiment of the country would thunder their anathemas against this legislature, until the very stars would join the throng and flash out their fiery indignation at such intolerable outrage upon our religious freedom, and petitions, numerous as the autumn leaves, would come into this Capitol from the Christian churches, praying Congress to perform its duty under section 4, article 4, of the Constitution, by guaranteeing to such State, for the benefit of the minority of its wronged citizens, a republican form and administration of government.

And the outrage against humanity, in excluding the innocent children of the poor, and such as were born with blue eyes without any volition of their own, from the blessed benefits of an education, what punishment from Heaven would not the prayers of all good people invoke upon the heads of the heartless authors? These are the weakest and dearest of the human family—the little children—"but strong in their very weakness and from the irrepressible sympathies of good men which, by divine compensation come to succor the weak."

And against the sixth act, which is not supposed now for illustration, but is virtually in existence in most of the States of the Union, especially in the Southern States, with a modification of that portion relating to the public schools, and which is the hostile pretended legislation that the passage of the bill under consideration will wipe out, freedom, justice, citizenship, and the Constitution stand forever arrayed.

For what is Freedom but the unfettered use
Of all the powers which God for use has given.

CENTRAL POWER OF NATIONAL GOVERNMENT OVER ERRING STATES.

It is singular that in this enlightened age of the world, and especially under the influence of our boasted civil and political liberties, that citizens of the United States because of their nativity, and at the same time citizens of their respective States because of their life-long residence therein, should be subjected to such intolerance and injustice as to call for and need the protecting arm of the national Government. And this is the saving feature in our beautiful system of government, that while States may err in prejudice or passion, the national Government will rectify and save through the exercise of a parental love and power. That while our States, like planets in the solar system, are revolving with a centrifugal force and deriving the benefits from the laws of their being, they are majestically kept in their spheres by the centripetal force of the central luminary or government from which spring that sunshine, warmth, and fructification which alone make us a nation.

EXERCISE OF PROTECTION OVER THIS CLASS OF OPPRESSED CITIZENS BY NATIONAL GOVERNMENT.

The national Government exercised its parental power for the protection of this class of oppressed citizens before to-day, and when the Legislature of Virginia passed and attempted to enforce its flagitious vagrant act, the representative of this Government, General Terry, stopped its enforcement by the following historical orders:

[General Orders, No. 4.]

HEADQUARTERS DEPARTMENT OF VIRGINIA,
Richmond, January 24, 1866.

By a statute passed at the present session of the Legislature of Virginia, entitled "A bill providing for the punishment of vagrants," it is enacted, among other things, that any justice of the peace, upon the complaint of any one of certain officers therein named, may issue his warrant for the apprehension of any person alleged to be a vagrant, and cause such person to be apprehended and brought before him; and that if upon due examination said justice of the peace shall find that such person is a vagrant within the definition of vagrancy contained in said statute, he shall issue his warrant directing such person to be employed for a term not exceeding three months, and by any constable of the county wherein the proceedings are had be hired out for the best wages which can be procured, his wages to be applied to the support of himself and his family.

The said statute further provides, that in case any vagrant so hired shall during his term of service run away from his employer without sufficient cause, he shall be apprehended on the warrant of a justice of the peace and returned to the custody of his employer, who shall then have, free from any other hire, the services of such vagrant for one month in addition to the original terms of hiring, and that the employer shall then have power, if authorized by a justice of the peace, to work such vagrant with ball and chain.

The said statute specifies the persons who shall be considered vagrants and liable to the penalties imposed by it.

Among those declared to be vagrants are all persons who, not having the wherewith to support their families, live idly and without employment, and refuse to work for the usual and common wages given to other laborers in the like work in the place where they are.

In many counties of this State meetings of employers have been held and unjust and wrongful combinations have been entered into for the purpose of depressing the wages of the freedmen below the real value of their labor, far below the prices formerly paid to masters for labor performed by their slaves.

By reason of these combinations wages utterly inadequate to the support of themselves and families have in many places become the usual and common wages of the freedmen.

The effect of the statute in question will be, therefore, to compel the freedmen, under penalty of punishment as criminals, to accept and labor for the wages established by these combinations of employers.

It places them wholly in the power of their employers, and it is easy to foresee that, even where no such combination now exists, the temptation to form them offered by the statute will be too strong to be resisted, and that such inadequate wages will become the common and usual wages throughout the State.

The ultimate effect of the statute will be to reduce the freedmen to a condition of servitude worse than that from which they have been emancipated—a condition which will be slavery in all but its name.

It is therefore ordered that no magistrate, civil officer, or other person shall in any way or manner apply, or attempt to apply, the provisions of said statute to any colored person in this department.

By command of Major General A. H. TERRY:

E. W. SMITH,
Assistant Adjutant-General.

INJUSTICE OF GEORGIA.

When Georgia grudgingly permitted this class of citizens to be competent witnesses in court only in cases where persons of color were a party or the offense charged was against the person or property of a person of color; and when her statutes declared that all persons wandering or strolling about in idleness, who were able to work, and who had no property to support them; all persons having a fixed abode, who had no visible property to support them, should be deemed and considered vagrants, and upon conviction should be fined and imprisoned, or be bound out to some person for a time not longer than one year;

INJUSTICE OF MISSISSIPPI.

When Mississippi passed laws that semi-annually the sheriffs, justices of the peace, and all other civil officers of the country should report to probate courts all colored persons under eighteen years of age whose parents had not the means or refused to provide or support them, to the end that such persons might be apprenticed, preference being given to the former owner of such person, and power being granted to inflict corporeal chastisement; and if any colored person failed to pay his "freedmen's pauper-fund tax" it should be *prima facie* evidence of vagrancy, and be subject to such penalty; and that colored persons should have a home or employment by the second Monday of each January, and if living in city or country to have a license from the mayor or member of the board of police of his beat, authorizing him to do job-work; and if leaving his place of employment should be arrested and carried back to his employer, the captor being entitled to five dollars and ten cents per mile from place of arrest to place of delivery; and no colored person was allowed to rent or lease any lands or tenements except in incorporated towns or cities, in which places the corporate authorities should control the same;

INJUSTICE OF FLORIDA.

When Florida passed laws that no colored man should own or possess any gun or weapon of any kind; that his children should not be educated except by a licensed teacher, such license costing five dollars; when vending their little products to carry a certificate from some respectable person, certifying that such products were their own and had not been stolen—

When such laws as these, and many more of equal and worse hardship, were enacted by Southern States against this class of citizens, the power of the national Government went forth and leveled the false and unjust fabric of these States to the feet of the oppressed, and then called upon all citizens to rear a new civil and political structure, in which all the inhabitants should be equal in the blessings as well as the duties of government.

THIS BILL IMPOSES NO HARDSHIPS UPON ANY OTHER RACE OR CLASS OF CITIZENS.

This bill before the House imposes no hardships upon any class of people, or upon any interest or section. It asks only the removal of unlawful and unjust hardships with the same right that any free citizen may ask for the abatement of a nuisance, that the free air and sunshine of himself and family may not be poisoned; that any legal owner may ask for the restoratien of his property from the hands of the purloiner.

These hardships are as various as the incidents of every-day life, and I cannot better portray them than by quoting a portion of the address issued by the national colored convention held at New Orleans in 1872.

BILL OF GRIEVANCES.

Having been by solemn legislation of the American Congress raised to the dignity of citizenship, we appeal to law-abiding people of the States, and especially of those who in the days of the fugitive-slave law exhorted obedience to statutes

however offensive, to protect and defend us in the enjoyment of our just rights and privileges upon all conveyances which are common carriers, at all resorts of public amusements, where tastes are cultivated and manhood is quickened, and in all places of public character, or corporate associations which owe their existence to the legislation of the nation or States; against the spirit of slavery which attempts to degrade our standard of intelligence and virtue by forcing our refined ladies and gentlemen into smoking-cars amid obscenity and vulgarity; which humiliates our pride by denying us first-class accommodations on steamboats, and compelling us to eat and sleep with servants, for which we are charged the same as those who have the best accommodations; and which closes the doors of hotels against famishing colored persons, however wealthy, intelligent, or respectable they may be, while all such public places and conveyances welcome and entertain all white persons, whatever may be their character, who may apply. Now, in view of this disgraceful inconsistency, this affectation or prejudice, this rebellion against the laws of God, humanity, and the nation, we appeal to the justice of the American people to protect us in our civil rights in public places and upon public conveyances, which are readily accorded, and very justly, to the most degraded specimens of our white fellow-citizens.

NO STATE CAN ABRIDGE THE PRIVILEGES OF CITIZENS OF THE UNITED STATES.

The power of Congress is not reasonably questioned on the passage of this bill, and neither should the disposition or willingness of this Government in the performance of its duty; for a government that confers citizenship and exacts allegiance must complete its franchise and render protection to the humblest as well as to the most exalted. Section 1 of the fourteenth amendment to the Constitution provides:

No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States.

As a citizen of the United States I am entitled to all the privileges and immunities of citizens in the several States; so are my constituents; and no State, neither Virginia, Georgia, Texas, nor any other, can make or enforce any law which shall abridge the civil and political rights and the common liberties of these citizens of the United States.

My constituents in Florida, according to the Constitution of the United States, are entitled to all privileges and immunities in Georgia, the same as citizens of that State themselves enjoy, provided they have acquired a legal residence therein in conformity with the requirement of the local law; and after such legal residence or citizenship is acquired, no jot or tittle of any privilege or immunity could be denied to them on account of color.

A citizen of the United States and a State is always equal to any other citizen of said State.

"COMMON DEFENSE AND GENERAL WELFARE OF THE UNITED STATES."

The indefinable reservoir of power, in the hands of the national Government, lies out of view, in its duty to provide for the "common defense and general welfare of the United States." This fountain is unfathomable, and will ever give forth according to each exigency. When it became necessary to "establish justice" by protecting the colored voters in the exercise of their right of suffrage against hostile State administrations, the power of Congress forged that effective remedy, the Enforcement Act.

When it became necessary to "insure domestic tranquility" by protecting loyal citizens in their life, liberty, and property, against murderous political conspiracies and hostile judiciaries, Congress found the power to pass that second great remedy, known as the Ku-Klux act.

To "promote the general welfare" Congress legislated against State banks of issue, and established a national system of paper currency; and for the promotion of the same general interests of the nation Congress may, in the exercise of its high legislative prerogative, settle the question of "cheap transportation" by regulating commerce among the States.

STATE-WRONGS AGAINST STATE-RIGHTS.

No ill can be stronger than the recuperative and repelling energy of the Government; and no selfishness, prejudice, or State *wrongs*, under the name of State rights, can be permitted to repress or weaken one vital principle of the Republic.

The franchise of citizenship must not be a mockery, but a full and perfect legal fruition.

PROGRESS AND CHARACTER OF THIS ENFRANCHISED CLASS OF CITIZENS.

The duties that go with it have been well performed by this enfranchised race; for where in this broad land is a more loyal and law-abiding people, and who serve their God and country with more alacrity than this new and patient class of citizens?

A better agricultural population for the production of southern staples cannot be found in the whole world; and the superstructure of society and commerce rests upon their broad shoulders as does the globe upon the shoulders of the mythological Atlantes.

They produce millions of wealth, yet themselves receive scarcely hundreds; and yet in the midst of adversity and hardship they make such noble progress in intelligence and thrift, that no other race, under like circumstances, can truthfully declare it would excel them.

In their ignorance they cherish political convictions that can be neither bought nor sold nor swayed by blandishments or danger; and I assert that the elective franchise is exercised with more purity among them than can be found in any northern city of more than twenty thousand inhabitants.

A people so loyal, peaceful, and laborious; whose past is only distinguished for the virtues of unrequited toil, obedience, and humility, earnest for prosperity, eager for knowledge and education for their rising generation—should they not receive all the encouragement that legislators and good men everywhere could give them, as but a slight atonement for their long oppression?

Oppression is no less severe in principle than in practice, and our forefathers created a revolution upon the principle alone that "taxation without representation is tyranny."

Is citizenship, which crowns the individual with only a refined injustice, any better? Injustice is always tyranny.

PROPHETS OF BAAL.

Pass this bill, and the tyranny of prejudice, violence, and error against this class of citizens will disappear like the miasma of night before the morning sun; and the practical inconveniences which gentlemen predict will be found to be far more in the fears of imagination than in actual experience.

All the unfriendly predictions volunteered upon this people have always come to naught in the past.

They entered into freedom with more sobriety than was predicted.

They continued in the even pursuits of industry, and kept up the usual production of cotton, and did not destroy themselves in riotousness and crime, as the unfriendly wiseacres so knowingly predicted.

They voted with more intelligence and safety than even their friends dared to hope; and everywhere these prophets of Baal proved how certainly they were never called to the work of prophecy. Society always adjusts itself much easier than croakers would have the world to believe.

CIVIL-RIGHTS LAW IN FLORIDA.

The State of Florida passed an act similar in every essential respect with this bill now under discussion; and for one year this act has been in practical force and observance; and I am gratified to state that the first case of its violation has yet to come to my knowledge. It has been a panacea for many of the ills in our State.

When kindness and common courtesy fail, the law intervenes, but this will be seldom necessary; for simply to represent the power of the law seems to supersede its enforcement.

While we need not, under the dominance of the present political party in Florida, this congressional legislation to secure our citizens in the full and exact enjoyment of all their legal rights and liberties, it is sadly needed in most of the States in the Union; and I am confident that even my unwilling democratic constituents at home will feel a pang of grim pleasure when they learn of the passage of this act; for they possess that same generous charitableness, in common with the rest of the human family, which is always anxious that their neighbors shall be blessed with the same happiness or misery as themselves.

CONSTITUTIONAL BREAD MUST NOT BE TRAMPLED UNDER FOOT BY THE SWINE OF PREJUDICE.

But to the republican party, controlling the action of this Congress, this class of our constituents appeal with outstretched hands for rescue from the maltreatment of corporate hate and intolerance.

They ask no new rights, no further endowments but they do ask and demand that their constitutional inheritance shall be given to them in full and not in moieties, and that no particle of their legal bread shall be wrested from them and their children only to be trampled under foot by the swine of prejudice.

Color is no crime, and the sacrilegious hands that would make it so, by condemning the Creator who is the author of it, must be stayed by just and firm legislation.

It was well remarked by Rousseau, that "It is precisely because the force of things tends always to destroy equality that the force of legislation should always tend to maintain it."

To republican members we appeal, whose first breath of life was the pure air of freedom, whose souls grew and matured surrounded by no mildewy technicalities in freedom, for the vindication of our cause, and for that equity in the laws and the Constitution which is the sacred birthright of every citizen.

One particle of dust in the human eye obstructs the free vision, and produces irritation affecting the health and comfort of the whole system.

Is the eye of liberty less sensitive in the body politic.

Then again we appeal to you—

> Who could not change with the changing hour.
> The self-same men in peril and in power;
> True to the law of right; as warmly
> Prone to grant another's as maintain their own;
> Foes of oppression wheresoe'er it be,
> To you, the proudly free.

Mr. STOWELL. Mr. Speaker, it has been so plainly manifest to the sense of justice of every right-thinking man that further legislation should be had to fully secure the rights of our colored citizens, that we have come to look upon it as an event likely to occur in the regular course of legislation, and are in danger of overlooking its importance and its bearings upon both the white and colored races. The discussion of yesterday shows us that slavery is not yet dead, but that it stalks about with its old barbarous tendencies; if not like the bully, at least like a ghost, insisting upon the perpetual degradation of the colored race.

Under the laws and institutions of our country, a colored man elected to this House has the same rights here that are accorded to any of us, and as a natural corollary he should have the same rights everywhere in our broad land.

He is given equal privileges in Congress now. Instead of being represented by proxy as three-fifths of a man, he now represents in his own person a whole man, and has an equal voice in the selection of his representative. Being equal here, why not everywhere, as the days of his inequality have passed away? In the highest legislative branches of the nation he is recognized as having equal rights, and so recognized by the democrats; but according to the theory of the democratic party, when you come to the church, or the hotel, or the railroad, or the school-house, or the jury-box, then there is and should be no practical recognition of his equality. By a consistent course of reasoning, those who oppose this bill would, I suppose, be in favor of giving the colored member a seat in some obscure corner in the cloak-room of this House; and would, like my colleague, [Mr. HARRIS,] address his remarks only to the white members. and, yielding to the white gentleman from Massachusetts [Mr. HOAR] for a question, would decline to yield to the colored man from South Carolina, [Mr. RANSIER.] Unreasonable, apparently, as his course seemed, yet his actions accorded with his enunciations; for both expressed opposition to the rights of the colored race, and were to that extent much more consistent than the course of some of the opposition members, who, with protestations of love and friendship for the colored race, never lose the opportunity of giving him a blow in his struggle for his rights.

This position is most forcibly illustrated by the course of the democratic Legislature of Virginia, which on yesterday adopted resolutions professing to cherish no "captious hostility to the present administration of the Federal Government," while it is a well-known fact that the very members of the Legislature who adopted this resolution were elected to their seats, just two months ago, because of their bitter hostility to the republican party and the "present administration of the Federal Government."

The second resolution says—

That this General Assembly recognize the fourteenth amendment to the Constitution of the United States as a part of that instrument, and desire in good faith to abide by its provisions as expounded by the Supreme Court of the United States.

And the fourth resolution very inconsistently says—

That the bill now before Congress known as the civil-rights bill is in violation of this amendment as interpreted by the Supreme Court of the United States, is an infringement on the constitutional and legislative powers of the States, is sectional in its operation, and injurious alike to the white and colored population of the Southern States, and that its enforced application in these States will prove destructive of their systems of education, arrest the enlightenment of the colored population, in whose improvement the people of Virginia feel a lively interest; produce continual irritation between the races, counteract the pacification and development now happily progressing, repel immigration, greatly augment emigration, reopen wounds now almost healed, engender new political asperities, and paralyze the power and influence of the State government for duly controlling and protecting domestic interests and preserving internal harmony.

In regard to these resolutions I have only to say that it looks very much as if the democratic Legislature of Virginia was willing to recognize the fourteenth amendment to the Constitution of the United States if Congress would only prevent it from being carried into execution; and they desire the whole question of the rights of the citizens of the United States to be left to the control and exclusive jurisdiction of the several State Legislatures, so that those Legislatures might practically defeat the benefits to be derived from it, by adverse legislation or by non-legislation. Their recognition of the fourteenth amendment is not friendly. It is the recognition which the hostile foe gives to the enemy it dare not cope with openly. They seek to damn it with faint praise.

The General Assembly of Virginia starts out with the proposition that the civil-rights bill under consideration is in violation of the fourteenth amendment, which they profess to recognize. I deny that. It simply carries into practical execution the provisions of that amendment; and those who are friendly to the fourteenth amendment must of necessity be in favor of the civil-rights bill, as the one is but the natural, logical, and legal sequence of the other. Its constitutionality is so obvious that I need not say anything more upon that point. After declaring the civil-rights bill unconstitutional the General Assembly of Virginia follow it up with a threat that if passed they will destroy the school system of Virginia and continue the political prosecutions and social ostracisms which have been so bitterly waged against all who have hitherto dared to advocate the rights of the colored man. These are no idle threats; they are meant by the conservatives of Virginia, and are openly announced on the streets of Richmond.

The position of the colored man in life has changed. They have ceased to be slaves, and are now citizens. In this transformation they have assumed new rights and new duties. We force the duties of citizenship upon them; it is but just to give them all the rights as well. For hundreds of years the colored race was kept in chains and slavery of the most revolting and degrading character. All generous impulses, all hope and ambition, were crushed out, and they were simply machines, subject to the will of the master, liable to be placed upon the auction-block, to be separated from wife, children, and friends, denied the opportunities of religion, and condemned like criminals if they sought knowledge or intellectual advancement. Under such influences it was impossible for them to improve either in material prosperity or in mental attainments.

But through the workings of an all-wise Providence and the disinterested patriotism and humanity of the republican party, their chains have been broken, slavery forever destroyed, the prerogatives of the master have dissolved, and the rights of the servant crystallized in the crucible of civil war. All the responsibilities of American citizenship now devolve upon them, responsibilities which commenced with that citizenship; the responsibility to labor and provide for themselves and their families, to clothe the body with raiment, and the mind with knowledge, and the heart with morality; the responsibility of contributing their share to support their country in its struggle for national supremacy, or, if needs be, of defending its honor against any foe. Can this be done cheerfully or successfully by them when they are made to feel in every walk of life and in every part of our country that the laws and customs and the habits and thoughts of the people with whom they live place the stamp of inferiority upon them; when, from their entrance into life to their departure to another world when the grave closes over them; whether in the school, in the church, in the place of public amusement seeking recreation or in the grave-yard taking their final rest, a moral mark of degradation follows them wherever they go? No! The Constitution and laws of our country say no! The spirit of our institutions say no! And the voice of our common humanity and the teachings of Christianity say no! That it is unfair, unmanly, and unchristian to compel these people, who have so long labored under the yoke who by their past lack of advantages are so little able to combat successfully in the great struggle of life, to bear the full responsibilities of American citizenship and deny them those equal civil rights which would enable them to meet those responsibilities successfully, which would give them that moral *élan*, that inward feeling of the heart which is so sustaining and encouraging, that feeling that they enjoy these great privileges as of right, that self-consciousness of equality before the law, which is as necessary for a successful contest after intellectual improvement as food and exercise are in the struggle for physical development.

The democratic party has persistently and brutally opposed every measure tending to ameliorate and advance the condition of the colored man, and he can only rely in the future, as in the past, upon the republican party to recognize his claims to justice. The democratic party in Congress, and in every State Legislature, opposed the adoption of the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States. They have opposed the execution of every law which tended toward carrying those amendments into effect. They denied as long as they could the right of the colored man to testify in our courts, and prevented him from voting at the polls. But now he testifies and votes, except in places where fraud, and intimidation and violence deprive him of his rights. We all know that hundreds of men have been murdered in the Southern States because they dared to exercise their rights against the wishes of the democracy.

But while they now by law enjoy the privilege of testifying and voting, yet they are still denied many rights to which they are entitled—to serve upon a jury, to have conveniences in traveling and at the hotels, and to send their children to school. In Virginia these rights are not denied by force, but by adverse legislation. Our State constitution provides that every voter shall be eligible as a juror; yet a democratic Legislature has for four years so perverted the spirit of that constitution that the colored man has been practically excluded from the jury-box. Our State constitution also provides for the education of all the children in the old Commonwealth, and yet a democratic Legislature has practically excluded them from this privilege. One of the leading citizens of Virginia, who is a member of the General Assembly, and who will probably represent the State for the next six years as one of her Senators in the United States Senate, said, in a speech in Richmond in 1869, when we were discussing the adoption of our present State constitution, that although the conservative party hated the constitution in all its features, they had better vote for it rather than oppose it, and thereby secure the election of democrats to the General Assembly; "For," said he, "I do not care what the constitution of the State is, if the people will only give the conservative party the control of the Legislature." By adverse legislation he proposed to defeat every obnoxious feature of that instrument.

It might recognize the right of the colored man to serve upon the jury; it might provide for the education of his children; he did not care what it was; because with a democratic or conservative legislature they could and would defeat every measure calculated to benefit the black race—and they have done it very effectually. Although our State constitution has been adopted for four years, yet ninety-nine out of every hundred colored men have never been summoned upon a jury. The report of the State superintendent of education for 1873, received by me this day, shows that Virginia has 445,893 illiterate persons ten years old and over, who cannot read and write. This is 50 per cent. It also shows that the public schools are kept open only five months of the year, and that during this short period only 15 per cent. of the colored population are in attendance upon the public schools.

Deplorable and alarming as this exhibit is, showing as it does such a hostility to the education of the poor and illiterate, yet threats are now openly made in the halls of legislation, by members of the General Assembly, who profess no hostility to the present adminis-

tration, and say they will recognize the thirteenth, fourteenth, and fifteenth amendments to the Constitution—threats are openly made that if the Congress of the United States dare to pass the civil-rights bill now under consideration they will close every public school in the State of Virginia, and a mild reflex of this threat was witnessed in this House yesterday in the speech of my colleague. And this same General Assembly has instructed its Senators and requested me, as one of its Representatives, to carry out those resolutions; but I spurn such a request, because it is against the wishes of a vast majority of the people of my district, and against the dictates of my own conscience. I have no hesitation in saying that the legal, political, and intellectual existence of the colored man is seriously threatened in Virginia, and that some immediate legislation by Congress is absolutely needed to rescue the poor, helpless, and uneducated colored man of Virginia from gradual, insidious political extinguishment. Their personal rights and their rights in property are at the mercy of their political enemies—not political opponents who simply differ in opinion and allow the same freedom that they claim for themselves—but political enemies, who believe in their political annihilation, and will not scruple to use every means in their power to tighten the screws and force them to an abandonment of their honest opinions.

Every colored man suing for his wages brings his case before a jury who are prejudiced against him because of his color. Every colored man tried as a criminal appears before a jury who are inclined to believe him guilty because of his race, and in both cases the fear of an adverse judgment may be held over him to force him to vote with that party which has been his constant and implacable foe. Such cases are by no means rare and their influence upon a poor friendless man recently a slave, and coming from the former master, can be readily imagined. The moral courage displayed by the colored man under these persecutions has been wonderful. They have lived in the constant faith that the republican party would give them exact justice and enable them to make a fair trial, free from persecutions, to become educated and prosperous citizens of our country.

This bill will enable them to make that trial. It takes away no right from any white citizen; it does no injury to any one; it does violence to no one's conscience, and it displaces no one in his position before his fellow-men. It simply gives an undeniable right to a citizen of the United States who is fully entitled to it.

The great objection made to this bill by its opponents is that it establishes social equality. But they make the mistake, which has been made for generations, of confounding what belongs to society with what belongs to personal rights.

There is no question of social equality in this bill. Gentlemen may choose their personal associates as they please; they may be white or black, or between the two; that is their choice, and no one proposes to interfere with it. This bill does not interfere with it, and I have yet to see the colored man who asks for it or desires it. They simply ask for equality under the law; that when any institution or privilege is created or regulated by law, it shall be free equally to all, without regard to race or color.

The hotel is a legal institution, originally established by common law and still subject to statutory regulations; railroads are legal institutions, chartered and vested with all their rights by legislative enactments; schools are legal institutions, established and maintained by law; the jury is a legal institution, existing here since the foundation of our Government, and is regarded as the palladium of our personal liberties; and what I now insist on, and what this bill provides, is that all these legal institutions shall be for the benefit of all alike.

You say the colored man has prejudices. If you wish to obliterate them, you can do so by kindness and generosity and an exhibition of a purpose to render justice. He is susceptible to kindness. He remembers that his labor raised you and your ancestors with all the surroundings of affluence, education, and refinement, while poverty, ignorance, and neglect were his lot. He feels that the sweat of his brow was coined into dollars which kept you in luxury, while a scanty pittance was doled out to him in his little hut; and he has an instinctive feeling that as his muscle was the productive source of income, a fair proportion was not devoted to his comfort and improvement; and he has a further feeling that your denial of equal civil rights at present is not only a denial to recognize and compensate him for his services in the past, but is also an indication that you desire to continue the policy of the past, so far as its practical benefits are concerned, into the future.

If you desire to conquer the prejudices of the past, or better still, if you wish to make some compensation for old benefits, you can do it best by securing bright prospects for his future. If you wish to restore harmony in feeling and unite in efforts to build up the material prosperity of the South, you can do it best by the gentler influences of confidence and justice. His friendship cannot be secured by keeping alive unpleasant memories and by continued indignities constantly remind him of his former degradation. But remove all trace of his past trials and associations, and then feelings will spring up to remove all doubts and brighten his future. Let us rise to a just sense of our duty and responsibility, achieve a victory over our prejudices and resentments, give up all hope of obtaining undue and unlawful advantages for the future, rise to the dignity and honor of our professions, forget ourselves, sink our differences in the respect we bear our fellow-beings, who are equal in all the elements of true citizenship, to ourselves. Suffer not the fleeting and unworthy influences of caste to outweigh our love for human rights, the immunities of the citizen, and the demands of the nation; but in view of the sufferings and humiliations of the past, let us rise to the true character of our position, and give to this long-suffering people full equality.

Mr. BUCKNER. I will yield for a few moments to my friend from Virginia, [Mr. WHITEHEAD.]

Mr. WHITEHEAD. Mr. Speaker, I desired and intended to speak on this bill, but am now satisfied that I will not have an opportunity to do so. However, inasmuch as the gentleman from Virginia [Mr. STOWELL] who has just taken his seat has attacked the Legislature and governor of that State, on account of the joint resolution which has been submitted to Congress, I ask to have read by the Clerk, in reply, what I have marked of an editorial on public schools, published in the Richmond State Journal, the organ of the republican party of Virginia. It is edited by two northern gentlemen, who are both educated and able, and is, in my opinion, the ablest republican journal south of the Potomac. The extract deserves attention.

The Clerk read as follows:

The public schools of Richmond are among the best to be found anywhere, and the time is soon coming when, if not tampered with by the meddling interference of outside legislation, they will be sought in preference to any other for the instruction of our youth of all classes, ranks, and conditions. We can imagine how their usefulness would be entirely destroyed, and the money now expended upon them be worse than thrown away, by legislating them into practical machines for the use of demagogues a thousand miles beyond our own borders. Here is the danger to the whole system of popular education in the South, and the sooner our members of Congress learn to attend to their legitimate duties under the Constitution, and let the domestic matters of the States alone, the sooner will the South and the whole country come up to the standard of educational advancement desired of them. The people of Virginia have made no distinction in the quality and quantity of education imparted to the white children of the State over its colored children. And especially is this true of our city schools under the superintendence of Mr. Binford. We think that, if the visiting committee showed any preference in their attention to the schools yesterday, it was manifested in those of the colored children, where their stay was relatively longer, and greater commendation was bestowed.

The colored people of this city ought to petition Messrs. SUMNER and BUTLER, of Massachusetts, to keep their meddling hands off the public-school system under which so many thousands of the brighter-faced children of their race are now being gratuitously educated. If they do not do this, but encourage such unconstitutional interference as is now sought, they will wake up one of these mornings to find the doors of every public-school house in the State barred to all educational advantages for their own and white children alike.

Mr. WHITEHEAD. That, Mr. Speaker, is the opinion of the republican party of the State of Virginia.

Mr. BUCKNER. Mr. Speaker, it is a palpable misnomer to designate the bill under consideration as "a bill to protect all persons in their civil and legal rights." It is a sham—a transparent deception—so to characterize it. A more appropriate title would be, "A bill to create social equality in the late slave-holding States, to consolidate the two races in hostility to each other, and to destroy the public schools." Whatever may be the apparent and ostensible purpose of the advocates of this legislation, its real objects cannot be mistaken. It professes to apply to all persons, native and foreign, European and Asiatic, black and white; but this thin disguise is thrown off when it forbids any distinction to be made as to admission or accommodation in public inns, places of public amusement, in public carriages of passengers, or in public schools, "of any citizen of the United States, because of race, color, or previous condition of servitude." It is no part of the object of the provisions of this bill to protect all persons in their rights, whether civil or social. It has exclusive application to the colored race, as if that race alone required the protecting arm of the national Government to shield it from injustice and wrong. There are "persons," and not a few of them, in the United States who are not citizens of the United States, and whose rights are not protected by this bill of sham pretensions. There are not only large numbers of such persons now here, but they are flocking and crowding to our shores by every steamer that enters our ports. The foreign-born population of the State represented in part on this floor by the distinguished gentleman [Mr. BUTLER] who has charge of this bill amounted in 1870 to three hundred and fifty-three thousand—nearly one-fourth of the entire population.

In Wisconsin and in Minnesota they constitute considerably more than one-half of the population, and in my own State they number two hundred and twenty thousand out of the million and three-quarters. What proportion of the large mass of foreign-born population within the jurisdiction of the United States is unnaturalized, or having taken the initiatory steps of citizenship have not become full-fledged citizens of the United States, I shall not stop to inquire. Whatever their numbers, or wherever they are, they are not protected in their rights by this bill. State laws may guarantee to them the right of suffrage, or the right to hold property, and to transmit it by will or devise, or even to hold office; but the ægis of American citizenship is denied to them by the negro amendments to the Constitution, as well as by all the legislation of Congress to enforce those amendments. Why this discrimination against race? Why should the legislation of Congress brand with inferiority the industrious, frugal, and law-abiding German, or the impulsive and quick-witted Irishman, after he has declared his intention to cast his lot with our people, and has abjured his allegiance to his native land? Is it because the negro has demonstrated his superior capacity for self-government; or that he is more loyal to the institutions of the country and better fitted to discharge the high duties of American citizenship? Let the condition of South Carolina and

Louisiana answer for the colored man; and let Wisconsin and Minnesota answer for the foreigner—naturalized and unnaturalized.

But what rights of the sons of Africa are now unprotected, or need enforcement? In which of the late slave States, or elsewhere, are they not equal before the law with the white man? What State is enforcing any law which "abridges their privileges and immunities" as citizens of the United States, or is denying to them the "equal protection of the laws?" Emancipated from servitude by the thirteenth amendment, elevated to the rights of full citizenship, and to the equal protection of law by the fourteenth amendment, and made a voter and a sovereign by the fifteenth amendment, and these amendments enforced by sundry acts of Congress, he is to-day in the full and complete enjoyment of every civil right possessed by his late master. There is no office in the gift of the nation that he may not fill. He can vote and be voted for. He can buy, sell, lease, convey, and devise all descriptions of property. He can go where he listeth, and come when he pleases. He can drink at the fountains of knowledge without money and without price. Schools are provided for his children at the public expense, and he can worship his Maker after the dictates of his own conscience. He can marry, and be divorced as other people. He can idle or work, sleep or feed, play the monkey or the man, as his inclinations direct. He can sicken and die, and be buried at the public expense. If this be not the largest liberty, what is it? If he is not the equal of any other man before the law, in what does his inequality consist? If there are any other "immunities or privileges" of American citizenship that this pet of Massachusetts does not enjoy in all their abundant fullness, let them be enumerated. And yet it is to be inferred from the provisions of this bill that there are certain civil rights to which the negro is entitled which some or all of the States have abridged, or which they have failed to enforce. It would seem that there are "public inns" where he cannot obtain bed or board; that he is excluded from places of public amusement; that stage-coaches, railroads, and steamboats will not transport his odoriferous person, or his baggage from place to place; that the public schools are closed to his children, and when death overtakes him, decent burial is not accorded to his lifeless corpse.

These are the facts assumed to exist; and it is to redress these wrongs, and to punish the offender, that we are urged to enact this law. But have they any existence in reality? Is the colored man anywhere excluded from places of public amusement, or from stage-coaches, railroads, or steamboats? Is the right of sepulture anywhere denied him, or are his children excluded from the benefits of the public schools? For my State I do not hesitate to affirm that there is not the slightest foundation for the assumptions of this bill so far as Missouri is concerned. Schools are everywhere provided for the negro by public taxation of which he pays an infinitesimal proportion. They are liberal supporters of all shows, theatrical performances, and public amusements, and no class of the population contributes more of their substance, relatively, to the exchequer of railroads. But it is not that they are excluded from transportation on railroads and other means of conveyance, not that they do not frequent places of amusement, not that they are compelled to take shelter from the elements in the public street or in the open highway, nor that their children are deprived of elementary education in the public schools. This is not the ground of pretended complaint. It is that they do not eat at the same table and sleep in the same bed with the whites; that they do not ride in the same car, and laugh at the stale jokes of circus-clowns from the same seat; that their children are not sandwiched between the blue-eyed German and the black-eyed American, at the same desk and con the same lessons from the same book, and that the same earth that conceals the dead body of the white man from sight shall cover the corpse of the negro. It is not equality of right, but identity of right that is demanded by this impracticable and mischievous bill. It is not civil rights but social rights that it seeks to enforce and protect. It is not equality before the law, but equality in society, that Massachusetts hankers after with such avidity. Can it be pretended when the State provides teachers and schools for the education of the future negro statesman, ample and sufficient for that purpose, that it discriminates against him, because he is taught in a school separate from the whites, male or female?

Will it be said that any "immunity or privilege" of the African citizen is abridged, or that he is denied "the equal protection of the laws," when he is required to ride in a railroad car set apart for his special accommodation? If he were refused passage altogether there might be some pretense for such legislation. The same remark will apply to theaters and other public places of amusement. So long as they are open to them, and they are not absolutely excluded, it cannot be said that they are abridged of any right or denied "the equal protection of the laws." It is inconceivable that the provisions of the fourteenth amendment should have any application to the pretended rights provided for by this bill. The "equal protection of the laws" could not have been designed for any such case. It could never have been contemplated that every citizen, male and female, black and white, foreign and native, should be accorded the enjoyment of every right in the same measure and in the same degree. Such a construction would invalidate all legislation which separated the sexes in schools supported by public funds, or which in any measure or degree discriminates in favor or against any portion or class of the community. If this be the true construction of the Constitution, all separations of the sexes in schools, churches, or elsewhere, either by law or the regulations of society, in the North as well as in the South, are violations of it, as the citizen has no sex. It is not only a strained, latitudinous, and unreasonable construction of the fourteenth amendment, upon which to base the provisions of this bill, but it is wholly impracticable, and in many of its provisions impossible of execution and enforcement. It is such an interference with the rights of private property and the rules and regulations of society that no free people would tolerate such mischievous intermeddling. No parallel or counterpart of such legislation can be found outside of the most despotic governments and of the most absolute tyranny.

But, Mr. Speaker, I take higher ground on this question. I do not base my objections to this bill on its inexpediency or its impolicy merely. That were enough; but there are graver objections to it than these. They go to the power of Congress to enact it. I maintain that Congress has no constitutional authority to take jurisdiction over this subject, and thus oust the jurisdiction of the several States. It will not be claimed that prior to the adoption of the three negro amendments, (thirteenth, fourteenth, and fifteenth,) the Federal Government ever exercised any legislative authority or control over the question of civil rights. With the exception of the restrictions imposed by the Constitution upon the States, such as the prohibition against *ex post facto* laws, laws impairing the obligation of contracts, and a few others, the whole domain of the individual rights of the citizen depended upon the several Sate governments for their existence, protection, and enforcement. It was to establish and secure these civil rights, including the right to acquire and possess property and to seek happiness and personal safety, that the State governments were erected; and the Federal Government never assumed any authority or jurisdiction over them. Has the central Government, by these amendments or by any of them, been vested with this enlarged jurisdiction? Are the civil rights of the people of all the States in the keeping of Congress, and have we the power to limit and restrain the exercise of legislative power by the several States on all questions affecting the rights of citizens? These are grave and important questions; for they involve the very frame-work of our complex system of government; they involve the very existence of the States for the purpose of home and local self-government, including the regulation of civil rights and the rights of person and property. More than that, they bring up for solution the right of self-government itself. For it cannot be gainsaid or denied, that if the men of Maine or California can legislate for the people of Missouri or Carolina on subjects local in their nature and exclusively affecting their own individual and home affairs and personal rights, this Government is at once transformed from a democratic republic into an oligarchy, and that the basis of our political fabric—the right of the people to self-government—is undermined and destroyed. If such is the effect of these amendments, we are no longer citizens, but subjects of a power foreign to us, and over which we have no control. Fortunately for the rights of the States and of the people, no such inference can be deduced from them, and no such power is vested in the Federal Government. This opinion as to the effect and meaning of these three amendments is amply confirmed and ably vindicated by the the late adjudication of the Supreme Court in the case already referred to by the gentleman from Kentucky, [Mr. BECK.] (Slaughter-house cases, 16 Wallace, pages 57–83.) And if this House shall, in the face of this exhaustive and conclusive opinion of a republican court enact this bill into a law, the country may well conclude that its action has been instigated by other than patriotic motives, and prompted by mere partisan considerations or by an insane greed for the retention of sectional political power.

The thirteenth amendment gave freedom to the slave; by the first section of the fourteenth his freedom was guaranteed and established, and citizenship, both of the United States and of the State, defined; while the fifteenth amendment elevated the late slave to the privileges of a voter and a sovereign. To each of these amendments was appended a section giving power to Congress to enforce them by "appropriate legislation;" an act of superfluity, inasmuch as Congress, under the Constitution, had power to make all laws "necessary and proper" for carrying into execution all the powers vested by the Constitution in the Government of the United States or in any department or officer thereof, except that the word "appropriate" was substituted for the words "necessary and proper," in the interest of centralism and loose construction. These appended sections gave Congress no power that it had not without them. Authority for the legislation contained in this civil-rights bill cannot fairly be deduced from any of these amendments, unless it be from the first section of the fourteenth. This section reads thus:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

The first paragraph merely declares who are citizens of the United States and what constitutes citizenship of the State. A citizen of a State must have been born in the United States or naturalized, and be a resident of the State; while to constitute a citizen of the United States, he need only be born or naturalized in the United States. It can hardly be conceived that this declaration or definition, as to

the once much-mooted question of citizenship, has conferred upon Congress power to legislate upon the rights of citizens in the States, and to divest and nullify the jurisdiction of each State over its own citizens. Nor is it believed that such legislation is claimed by its advocates to be deducible from this first paragraph of the first section of the fourteenth amendment. If Congress has any power over the subject, it must be derived from the subsequent clauses of this section, by which the States are inhibited from abridging the privileges and immunities of citizens of the United States and from denying the equal protection of its laws to any person within its jurisdiction. Assuming that by virtue of these clauses (which I am not prepared to concede) that Congress has power to legislate to protect the rights prohibited from invasion or infringement by the States, there can be no question but that the "immunities and privileges of citizens of the United States" are immunities and privileges that appertain to citizens of the Union as such, and have no reference to the civil rights of the citizen of the State. They are such privileges and immunities as belong to the citizen of the United States by virtue of the existence of the Federal Union, its national character, and its Constitution and laws. The fact that in this prohibition against State legislation citizens of the United States are mentioned, and not citizens of the State, when they are both mentioned and defined in the previous section, shows conclusively that the prohibition was not designed to extend to the rights and privileges of the latter. So that the conclusion seems to be inevitable, that the second clause of the first section of the fourteenth amendment does not give Congress any power to interfere in the regulation or control of those rights of the citizens of the State which have from the foundation of the Government been exclusively within the domain of State legislation.

Can the clause forbidding the denial by any State to any person within its jurisdiction of equal protection under its laws be construed to authorize the legislation proposed in this bill or any other legislation affecting the civil rights of its citizens, in the absence of any law of the State making discriminations against the negro as a class? There is no evidence before this House of the enactment of any law which fails to give the negro like protection with the white man, and before Congress shall commit itself to any interference with the duties of State governments on this subject, much less to the provisions of this mischievous bill, it should be satisfied that the States have disregarded this prohibition, and equal protection is denied the negro by law. On this point I quote from the opinion of Justice Miller, delivering the opinion of the Supreme Court in the case in 16 Wallace, page 81:

> In the light of the history of these amendments and the pervading purpose of them, which we have already discussed, it is not difficult to give a meaning to this clause. The existence of laws in the States where the newly emancipated negro resided, which discriminated with gross injustice and hardship against them as a class, was the evil to be remedied by this clause, and by it such laws are forbidden. * * *. We doubt very much whether any action of a State, not directed by way of discrimination against the negroes as a class or on account of their race, will ever be held to come within the purview of this provision.

Further on, after speaking of the sentiment in favor of a strong government growing out of the late civil war, the same learned judge says:

> But however pervading this sentiment, and however it may have contributed to the amendments we have been considering, we do not see in those amendments any purpose to destroy the main features of the general system. Under the pressure of all the excited feeling growing out of the war our statesmen have still believed that the existence of the States, with powers for domestic and local government, including the regulation of civil rights, the rights of person and of property, was essential to the perfect working of our complex form of government, though they have thought proper to impose additional limitations on the States and to confer additional power on that of the nation.

Mr. Speaker, I am not one of that political faith who hold that the opinion of the highest judicial tribunal, on a question of constitutional law, binds and concludes either of the other departments of the Government. They are co-ordinate and co-equal with the Supreme Court, and in its own sphere each must determine for itself to what extent the supreme law controls its opinions and its action. But as an authoritative exposition of the Constitution the opinion of the Supreme Court is always deserving of the most respectful consideration and the most thoughtful deference, not only from the people at large, but from their agents in the other departments of the Government. Twice were the questions involved in these cases argued and reargued; and coming as this opinion does from members of the same political household with the majority of this body, it merits at their hands an honest, impartial, and well-considered judgment. It is humbly submitted, that under the principles enunciated in the opinion from which I have read the Supreme Court must hold that the provisions of this bill, if enacted into law, are unconstitutional and of no effect. And if this should be otherwise, why fan the embers of sectional hate into new life? Why give your sanction to a measure that will inevitably increase the enmity of the two races, already in some sections sufficiently exasperated, and that must fail of benefit to the negro, and in all likelihood be of incalculable injury to him? For nearly a decade you have been legislating for the negro by amendments to the Constitution and by acts of Congress; the judicial power of the Government has been placed at his service; the Army and Navy have done police duty for him; Senate and House have been wrangling over him for years. He sits as a legislator in both ends of the Capitol. His pathway to wealth, position, and place have been cleared of all obstructions. He is king of South Carolina, Florida, Louisiana, Mississippi, and Alabama, and to-day he holds in the hollow of his rough hand the destiny of this grand Republic. And all this you have done for him. Is it not enough? and may you not appropriate the interrogatory of the prophet, and ask yourself in tones of heartfelt lamentation, "What more could I have done for my people than I have done?" Let the negro and his rights be dismissed these halls forever; and let him work out his political salvation, if not with fear and trembling, at least without any further sacrifice of the great interests of the country.

I find it difficult to comprehend how the negro is to be benefited by the passage of this bill. Nor can I understand why there should be such discrimination in his favor as between him and the white citizen. Justice is administered to him without sale, denial, or delay, and there is no legal wrong that he may sustain for which he cannot obtain like redress in the courts of the State with the white man. If a white citizen is excluded from a public inn or a place of public amusement he must sue in the State courts, and content himself with the actual damages sustained; but if it be a colored man who has a similar cause of action, the unfortunate inn-keeper, showman, or teacher of a public school is subjected to a penalty of from one hundred to five thousand dollars, and in addition the man "guilty of a skin" has his cause of action for damages, and both the actions must be instituted in the United States courts. Nor do I see the propriety of his being forced into the public schools against the wishes or prejudices, if you please, of those by whom they are supported, when nothing can be more certain than that success will tend to the destruction of the system, and thus leave his children without any means of education. So odious and distasteful is that feature in this bill, opening the schools to the negro, that the republican candidate for governor at the late election in Virginia, and who has just been appointed to the judgeship of the eastern district by President Grant, most unequivocally condemned their admission in the public schools of that State, and every republican speaker in the canvass took the same position.

And in confirmation of this sentiment among republicans in the South, I read an extract from one of the leading republican journals of Virginia, the Lynchburgh Press:

> As the schools are at present organized, perfect impartiality is shown; equally competent teachers are employed for white and colored schools; and while the whites, in giving in adherence to mixed schools, would have to violate in many cases the preconceived ideas that have been instilled into their minds from their birth, the colored people, on the other hand, (and we speak of those of them who are worthy of the most consideration, and not the professional politicians,) are loth to bring their children into competition with their pale-faced neighbors—as they would in mixed schools—because they fear that the impartiality that now exists would under such circumstances fail to obtain; and they know further, that while the common-school system, as now conducted, is productive of peace and harmony between the races, the innovation that Mr. Sumner and other theorists and impracticables seek to environ us with could not in the nature of things be otherwise than prolific of discord, tumult, and open rupture.
>
> We are now, and ever have been, the unflinching advocates of free schools even when such views were unpopular, and in opposing this feature of the bill of Mr. Sumner we are influenced solely by a desire to perpetuate a system that is fraught with much of good to both races · and we do not, therefore, feel like quietly sitting down and folding our hands and withholding condemnation from a measure which, although originating with a whilom republican, cannot fail to be attended with the most disastrous consequences to the cause of public education.
>
> We are thoroughly convinced that if this feature remains in the bill, and Congress is possessed of the temerity to pass it, the death-knell of public schools will have been sounded, not only in Virginia but in other of the Southern and some of the Western States. In this State the provision of the Constitution originating them will be rescinded, and the colored children will be the worst sufferers by so unfortunate an event, because much the larger portion of the taxes levied for educational purposes are imposed on the whites, and it is not within the range of probability that a democratic Legislature will tax the people to propagate mixed schools.

But, strange to say, the medicine which Virginia republicans refuse to administer for themselves, Massachusetts republicans insist shall be crammed down their reluctant throats, while they, happy souls, are neither in a condition to require the nostrum or to suffer from its good or ill effects. Be assured, Mr. Speaker, that "there is a nigger under this wood-pile," and notwithstanding the fair exterior and comely outside of this bill for the protection of the civil rights of all persons, it has other purposes and objects than appear on its face. The scepter is departing from Israel; the star of empire is taking its way westward. Political power is stealing from the East to the great valley, and of late there has been a terrible shaking of the dry bones in that wonderful valley. The people have been sleeping and slumbering for, lo! these many years, and while they slept and slumbered they have been robbed and plundered by those of their own household. And they too are clamoring for protection; not for the rights of the negro, but for the rights of their own unrequited labor. They demand protection against the unjust discriminations of railroad monopolies; protection against the discrimination in favor of the bondholder against the plowholder; protection against the extortions of that "sum of all financial villainies," the national-banking system; in fine, protection against all forms of monopoly, whether of land or money, iron or salt, and all forms of legislation whereby the many are plundered for the benefit of the few, and the capital of the country enriched at the expense of its labor. Let no one mistake the signs of the times; let no one be deluded with the idea that the great uprising of the farmers of the West and the Northwest is to be satisfied with cheap transportation from the valley to the sea-board, or to the Gulf. It has a far greater significance. It means cheap transportation and cheap iron as well; it means cheap salt, cheap woolens, cheap cottons, cheap hats, cheap shoes, cheap money; it means the right to

the rewards of their own labor, and the right to buy in the cheapest markets and to sell in the highest. No one comprehends more clearly the deep significance of this movement than the worshipers of mammon in the East—its money-changers and its lords of the furnace and the loom. And if by such measures as this civil-rights bill they can succeed in hoodwinking and cajoling the West into the continued worship and adoration of the ebony idol, and divert its attention from the real wrongs of the white man to the fancied and imaginary ones of the negro, and at the same time compact into one solid mass the negro population of the South and keep it under the command and control of the heirs and legal representatives of the Freedmen's Bureau, these vampires of the life-blood of the labor of the country may continue their ruinous depletion for many long and dreary years in the future. Such, I greatly mistrust, is the object and purpose of the bill under consideration.

It is difficult to conceive of anything more ill-timed and inopportune than the presentation of this measure for the adoption of Congress. There were reasons for indulging the hope that this Congress would devote its attention with zeal and alacrity to the discussion and maturing some measures for the relief of the country, and for rescuing its material interests from the stagnation and depression that now burden all branches of business. Everywhere, and in all sections of the Union, there is financial distress. Trade is stagnant and industry is paralyzed. Failure, disastrous failure of the financial policy of the Government is proclaimed by men of all parties and of all shades of opinion. The Treasury itself is on the verge of bankruptcy, and increased taxation is demanded by its head to meet its daily expenditures. Taxes, external and internal, are falling off; property of all kinds is shrinking in value; and honest labor goes unrequited and unrewarded. The shop and the manufactory are closed, and the mechanic seeks employment in vain. The wares of the merchant and the trader lie upon their shelves unsold, and they enter upon the business of the new year anxiously endeavoring to peer through the thick darkness that surrounds them.

The accumulations of a life-time disappear like snow before a summer's sun, and the millionaire of to-day is the bankrupt of the morrow. In all the great centers of population the working classes are giving unmistakable manifestations of discontent and dissatisfaction, muttering angry threats and imperiling the peace of society and the security of property—while throughout the teeming valley of the Mississippi the cultivators of its soil, with barns and granaries filled to overflowing and larders stocked with superabundance, are organizing secretly and openly against the authors of their misfortunes and against the obstacles to their prosperity. Seldom in the history of this country has there been witnessed such widespread disaster and such universal unrest and discontent. Fortunate, thrice fortunate, shall we be if, before the return of genial spring, we do not chronicle scenes in the streets of the large cities of the Union such as are only paralleled on the eastern continent in times of anarchy and revolution or when gaunt famine cursed the land. And yet amidst this financial crash, this national disorder and individual distress, and with all this wreck and ruin seen and felt everywhere, the chosen representatives of this suffering people are here gravely discussing whether the negro shall ride in the front or the rear car of a railroad or sit in the box or the pit of a theater. Surely we are stricken with judicial blindness.

Mr. BUTLER, of Massachusetts. I will yield for a moment to the gentleman from Maine.

NAVAL APPROPRIATION BILL.

Mr. HALE, of Maine, by unanimous consent, from the Committee on Appropriations, reported a bill (H. R. No. 1013) making appropriations for the naval service for the year ending June 30, 1875, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. ARCHER. It is understood that we reserve all points of order.

The SPEAKER. Points of order will be reserved.

Mr. HALE, of Maine. I move that the bill be made the special order on Thursday next, after the morning hour, and from day to day until disposed of.

Mr. SENER. Is not that time fixed for the education bill?

The SPEAKER. That is in the morning hour, and this special order is proposed to come in after the morning hour.

Mr. BECK. Does the gentleman propose to fix Thursday of this week?

The SPEAKER. Yes; day after to-morrow.

Mr. BECK. The gentleman cannot expect to dispose of it this week.

Mr. PLATT, of Virginia. We want time to consider the bill. I object to so early a day being set.

Mr. HALE, of Maine. The only changes made in the bill are in the way of reductions, which I believe the House will assent to very readily. We have not interfered with the province of the Naval Committee by changing the law at all; and I hope that before the end of this week we will get the bill out of the way.

Mr. PLATT, of Virginia. Does this require unanimous consent?

The SPEAKER. No; a majority vote decides.

Mr. PLATT, of Virginia. Then I will insist on a vote. If the gentleman's motion is agreed to we have only twenty-four hours in which to examine and consider this important bill.

Mr. MYERS. I suggest that the consideration of the bill be assigned for Wednesday of next week.

Mr. HALE, of Maine. I desire to have it understood that, when the order is called, if the House should then consider any subject-matter to be of more importance, not only will it not be called upon to proceed with this bill, but I shall not attempt to urge it. This, however, is a bill which involves the first stroke of the committee in cutting down expenditures; and if I find the House ready to proceed with this matter of the naval appropriation bill on Thursday morning after the morning hour, I want to call it up and proceed with it; and I hope the House will sustain me in that motion, for I know the country will sustain us.

Mr. BECK. I desire to ask the gentleman a question. Has the report of the Secretary of the Navy been printed and laid on our desks? I have not seen it.

Mr. HALE, of Maine. I presume it has been printed and distributed. I have seen it, and had it in my possession for some time.

Mr. BECK. I have not seen it. I desire also to ask the gentleman whether his bill is printed?

Mr. HALE, of Maine. I propose to have the bill ordered now to be printed.

Mr. BECK. And this is Tuesday evening, and the gentleman proposes to have the bill considered on Thursday.

Mr. MYERS. As so little time will be left for an examination of the bill if the order proposed be made, I move that Wednesday of next week be fixed for its consideration.

Mr. HALE, of Maine. I hope the amendment of the gentleman from Pennsylvania [Mr. MYERS] will not prevail, for the reasons I have stated. I think we cannot do better than proceed in the direction in which the Committee on Appropriations is faithfully laboring—that is, in putting the knife into the expenditures and cutting them down. A postponement of this measure now will be looked upon by the country, I am afraid, as in the direction of putting off the cutting down of expenses.

Mr MYERS. I am afraid of nothing in insisting upon the proper examination of the questions presented to us. What we desire is to have a full examination of the whole subject and pass upon it understandingly. We cannot do that without having the proper documents before us, and the time which the gentleman from Maine proposes to leave is too brief, in my judgment. I therefore press my motion that Wednesday of next week be fixed for the consideration of the bill.

Mr. BECK. I desire to say this, that if we work this thing through without having the report of the Secretary of the Navy and without having seen the printed bill, while this may be making a pretense of economy, the result will probably be, that before the bill leaves the conference committee and becomes law the appropriations will be much higher than they would otherwise be.

Mr. BUTLER, of Massachusetts. Will the gentleman from Maine allow me to make a single observation?

Mr. HALE, of Maine. Certainly.

Mr. BUTLER, of Massachusetts. I think the House will proceed under a misapprehension, if it supposes that passing this bill on one day or on another is to lessen our expenditure before the year commencing on the 1st of July, 1874, and ending 30th June, 1875. It will not cut down the expenditure, it will not raise the expenditure, it will not interfere with the expenditure at all until next July.

Mr. HALE, of Maine. But it will be what, if possible, is more important than that; it will be an indication that Congress not only talks economy and the reduction of expenditures but means it.

Mr. BUTLER, of Massachusetts. I do not care what anybody says about me. [Laughter.]

Mr. HALE, of Maine. Well, let me say again, that if the House is not ready on Thursday to proceed, and has not sufficiently by that time examined this bill which does reduce the expenditure to the amount of millions, then I, as having charge of the bill, shall not and ought not to insist upon pressing it. But now that the question has been raised, I ask the House to adopt the motion I have made that the consideration of the bill be set for an early day.

Mr. G. F. HOAR. Does the gentleman from Maine propose to allow general debate on the bill?

Mr. HALE, of Maine. I propose that there shall be as much time for general debate on the bill as the House wishes to take. If the House insists on time for general debate I shall not attempt to contravene its will. For myself I do not propose to speak at any great length.

Mr. G. F. HOAR. It seems to me that if the consideration of the bill is set at the time the gentleman proposes, the general debate on the bill could be continued from day to day.

The SPEAKER. It can only be general debate until the House otherwise orders.

Mr. DAWES. I hope the House will sustain the motion of the gentleman from Maine; because, when the gentleman moves to go into the Committee of the Whole for the consideration of the bill, the majority of the House, if not ready to proceed, can postpone the order from day to day until they are ready. The matter is entirely under the control of the majority of the House in spite of the order for the consideration of the bill in Committee of the Whole on a certain day.

Mr. HALE, of Maine. Allow me to state another reason why we

selected an early day for the consideration of this bill. The Army appropriation bill has been set for Tuesday of next week, and if we can take up this bill and consider and pass it, it will be good work for this week.

Mr. GARFIELD. I desire to make a suggestion to gentlemen in regard to the question of time. It is very true that the cutting down of appropriations in any one of the annual appropriation bills, where no change in the law is made, will not take effect until the first of July next; but every gentleman knows that it is the almost unbroken habit of Congress to push off the appropriation bills until the last week of the session, and we then find ourselves with four or five large appropriation bills on our hands on the last night of the session. This happens sometimes because committees are not ready, but more frequently because a combination of interests pushes aside the appropriation bills, saying that they can always be passed.

Mr. MYERS. We are not near the last day of the session yet.

Mr. GARFIELD. I hope the House will allow the Committee on Appropriations to begin their work as soon as they are fairly ready and are able to present carefully prepared bills, so that they may be calmly considered. Every possible opportunity for reasonable debate the House has in its own hands by a majority vote. I hope the proposition of the gentleman from Maine [Mr. HALE] will prevail, and if for any reason the time ought to be extended, the House will always have it in its power to extend it.

Mr. BECK. I do not desire to postpone the consideration of this bill a single moment longer than is necessary to enable the House to know what it contains; to read the report of the Secretary of the Navy and the printed bill, and to examine both. We all know, those of us who have been here any time, that after a bill of this description once passes the House, we never give it any full consideration. The bill goes to the Senate and amendments of all sorts are put upon it, properly perhaps, but when those amendments come back, the Committee on Appropriations move a non-concurrence, and without any examination of the amendments the bill is sent to a committee of conference. That committee do just as they please, and when they present their report to the House they call the previous question without its being printed at all, or if printed, merely by numbers, so that no member knows what he is voting for, and must either vote for the report as a whole or against it. Hence the importance of fully considering such bills in the first instance. I was glad to hear the chairman of Committee on Appropriations make the remark he did. Heretofore the appropriation bills have been left to the last moment and crowded through with all sorts of improper legislation in them, because the House could not examine or understand them. I hope this House will agree not to fix a time for adjournment until every appropriation bill is passed, so that ten days shall intervene between the passage of the last of them and the adjournment. It is not for delay but to save time that I resist a too-hasty consideration of this bill.

Mr. HALE, of Maine. I now call the previous question on my motion.

Mr. MYERS. I rise to a point of order. I believe that before the previous question was called I moved an amendment, to make this bill the special order for Wednesday of next week.

The SPEAKER. Strictly speaking the gentleman who reported the bill and made the motion in regard to it is entitled to call the previous question.

Mr. HALE, of Maine. I have not yielded for any amendment.

The SPEAKER. This debate has been merely interlocutory. There has been no recognition of members to entitle them to make motions.

Mr. PLATT, of Virginia. Will the gentleman from Maine allow me a moment before he moves the previous question?

Mr. HALE, of Maine. It is too late, and this debate has already run too far.

Mr. NEGLEY. I must insist on my motion to adjourn, if gentlemen are going to debate this matter all the evening.

Mr. HALE, of Maine. I do not propose to debate, but I insist on the previous question.

Mr. MYERS. I give notice that if the previous question shall be voted down, I will offer the amendment I have indicated.

The SPEAKER. The question will be put directly on the motion of the gentleman from Maine.

Mr. PLATT, of Virginia. I thought the first question was upon seconding the previous question.

The SPEAKER. Neither question being debatable, the result is precisely the same.

The question was put on the motion of Mr. HALE, of Maine; and on a division there were—ayes 105, noes 79.

So the motion was agreed to.

Mr. HALE, of Maine, moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BOSTON POST-OFFICE.

Mr. GARFIELD, by unanimous consent, from the Committee on Appropriations, submitted a report from the sub-committee in regard to the proposed extension of the Boston post-office building; which report, with accompanying papers, was ordered to be printed, and recommitted to the Committee on Appropriations.

WITHDRAWAL OF PAPERS.

Mr. MYERS asked, and obtained, unanimous consent to have withdrawn from the files of the House the papers in the cases of Marcus Radish and John Hatfield.

Mr. SWANN asked, and obtained, unanimous consent to have withdrawn from the files of the House the memorial of Thomas Winans and William Winans, praying for an extension of their patent for the "cigar steamship," and the papers accompanying the same.

Mr. NEGLEY moved that the House adjourn.

The motion was agreed to; and accordingly (at four o'clock and fifty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ADAMS: The petition of Susan Ross, for a pension.

By Mr. BANNING: The petition of Captain A. W. Hicks, for compensation for meritorious services in the war as pilot of the Switzerland, the flag-ship of the United States ram-fleet on the Mississippi River, under Colonel Charles Elliott.

By Mr. BUTLER, of Massachusetts: The memorial of John C. Duff, of Key West, Florida.

Also, the petition of J. H. Huntington and S. A. Nelson, for compensation in establishing signal-station on Mount Washington, New Hampshire.

Also, the petition of Dwight A. Barrett, Company E, Forty-sixth Regiment Massachusetts Volunteer Infantry, for a pension.

By Mr. CESSNA: The petition of William H. Small, of Adams County, Pennsylvania, late a private of Companies E and K, Fifteenth Regiment Pennsylvania Cavalry, for a pension.

Also, the petition of Charles A. Draher, of Adams County, Pennsylvania, late of the One hundred and sixty-sixth Regiment Pennsylvania Volunteers, for a pension.

By Mr. CHAFFEE: Petitions of citizens of Colorado Territory, asking Government aid to construct a wagon-road from Rollusville via the Hot Sulphur Springs to the western boundary of Colorado Territory.

Also, a petition asking that the branch mint at Denver be put upon a coinage basis.

Also, a petition asking the passage of an act to authorize the people of the Territory to form a State government, and for admission in the Union as a State.

By Mr. CLAYTON: The petition of the House Carpenters' Eight-hour League, and Shop of United Mechanics, of California, asking the removal from office of Supervising-Architect Mullet.

Also, resolutions of the Mechanics' State Council, of California, on the same subject.

By Mr. COTTON: The petition of N. G. Clement and other soldiers, asking the passage of the House bounty bill of the last session.

By Mr. COX: The petition of Henry Meywell, for increase of pension.

Also, the petition of William H. Johnson for pension, and congressional investigation as to course of commissioners.

By Mr. DAWES: The petition of Dr. John R. Bigelow, of Washington City.

By Mr. FORT: The petition of John O. Wheeler and 360 other citizens of Livingston County, Illinois, praying Congress to authorize a commission to inquire into the liquor traffic, and its influence in producing pauperism and crime.

By Mr. GARFIELD: A petition of citizens of Ashtabula County, Ohio, praying that a pension be granted to Almond F. Mills.

By Mr. HAYS: The petition of the Colored Laborers' Association, of Greene County, Alabama, and proceedings of a meeting of said society, giving an account of their destitution and inability to obtain pay for their labor.

By Mr. PARSONS: The memorial of Lieutenant Julius M. Carrington, Company H, Tenth Regiment Michigan Volunteers, for pay as second lieutenant, under the joint resolution (approved July 11, 1870) amendatory of joint resolution for the relief of certain officers of the Army, approved July 26, 1866.

By Mr. SHEATS: A memorial of the lay-members of the Alabama Conference of the Methodist Episcopal Church South, praying compensation for use of same during the war.

By Mr. VANCE: Joint resolutions of the Legislature of State of North Carolina against any increase of the tax on manufactured tobacco.

By Mr. WOLFE: A memorial from the citizens of the city of Mount Vernon, Indiana, asking Congress to remove obstructions in the Ohio River, in front of said city.

IN SENATE.

WEDNESDAY, *January* 7, 1874.

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

The PRESIDENT *pro tempore* on taking the chair said: The hour of twelve o'clock having arrived, and the Senate on the first day of its present session having passed a standing order that twelve o'clock each