

the chair, Mr. SPRINGER reported that, pursuant to the order of the House, the Committee of the Whole on the state of the Union had had under consideration the bill (R. H. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

EVENING SESSION.

Mr. SPARKS. On consultation with a great many members of the House, it was thought best that we should have one night session before the close of the debate. I would therefore ask unanimous consent that a recess be taken to-morrow afternoon from half past four until half past seven.

Mr. BROWNE. I understand that by a resolution of the House it has been determined that the general debate shall close to-morrow.

Mr. SPARKS. No, the day after to-morrow.

Mr. BROWNE. Then I cheerfully assent to the proposition of the gentleman.

There being no further objection, the order was made.

WITHDRAWAL OF PAPERS.

On motion of Mr. HUMPHREY, by unanimous consent, leave was granted to L. L. Lancaster to withdraw from the files of the House his discharge, a bill having been passed for his relief the last session of Congress.

Mr. SPARKS. I move that the House do now adjourn.

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

PETITIONS, ETC.

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

By Mr. BAKER: Resolution of the Legislature of Indiana, asking that the national-banking law be so amended as to require national banks to sue in the State courts of the States in which they are located—to the Committee on the Judiciary, when appointed.

Also, the petition of John Welch and other members of White Oak Grange, Kosciusko County, Indiana, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

Also, the petition of Joanna W. Judge, widow of Peter Judge, deceased, that the charge of desertion may be removed from his military record—to the Committee on Military Affairs, when appointed.

By Mr. BARBER: The petition of P. L. Turnley, for restoration to the rank of captain in the United States Army—to the same committee, when appointed.

By Mr. CABELL: The petition of officers and members of Providence Grange, Grayson County, Virginia, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

Also, the petition of members of Providence Grange, Grayson County, Virginia, for the reduction of the tobacco tax—to the Committee of Ways and Means, when appointed.

By Mr. COBB: The petition of citizens of Washington Township, Knox County, Indiana, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

By Mr. DAVIS: Resolution of the Legislature of North Carolina, favoring an appropriation for the improvement of Cape Fear River, the making of Fayetteville, North Carolina, a port of entry, and the making the navigation of Cape Fear River free—to the Committee on Commerce, when appointed.

Also, resolution of the Legislature of North Carolina, favoring an appropriation for the improvement of Waccamaw River—to the same committee, when appointed.

Also, resolution of the Legislature of North Carolina, favoring an appropriation sufficient to clear out and deepen Currituck, Croatan, and Pamlico Sounds, and Neuse and Newport Rivers—to the same committee, when appointed.

Also, resolutions of the Legislature of North Carolina, relative to the improvement of the rivers of said State—to the same committee, when appointed.

Also, resolution of the Legislature of North Carolina, favoring the establishment by the General Government of two universities in the South, one for the education of white and the other for the education of colored youths, free of charge, and that \$1,000,000 be appropriated for the establishment of each university—to the Committee on Education and Labor, when appointed.

Also, resolution of the Legislature of North Carolina, favoring an appropriation to make Lumber River navigable—to the Committee on Commerce, when appointed.

Also, the petition of Daniel H. Jordan, C. R. Wilson, jr., and others, members of New Bethel Grange, North Carolina, for the passage of the Reagan interstate commerce bill—to the same committee, when appointed.

By Mr. HILL: The petition of William E. Houghton and others, of Fulton County, Ohio, of similar import—to the same committee, when appointed.

Also, the petition of Susan R. Gassaway, for the removal of the charge of desertion from the military record of William H. Estell, deceased—to the Committee on Military Affairs, when appointed.

By Mr. LINDSEY: The petition of Sarah O. Webber and 39 other

women, of Saint Albans, Maine, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary, when appointed.

By Mr. MCKINLEY: The petition of A. Steiner and 45 others, citizens of Canal Fulton, Stark County, Ohio, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

Also, the petition of J. H. Miller and 23 others, citizens of Canton, Stark County, Ohio, against the extension of the McKay & Mathies patent—to the Committee on Patents, when appointed.

Also, the petition of Franklin Grange, No. 698, of Wayne County, Ohio, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

By Mr. URNER: The petition of R. H. Lansdale, Isaac Hartsborne, Marshal Brown, and other members of Brighton Grange, Montgomery County, Maryland, of similar import—to the same committee, when appointed.

Also, the petition of Alice Lynn, Emma A. Martin, Mattie E. Youson, and other women of Mechanicstown, Maryland, for legislation to make effective the anti-polygamy law—to the Committee on the Judiciary, when appointed.

By Mr. VALENTINE: Memorial of the Legislature of Nebraska, urging the repeal by Congress of all laws which allow certain railroad corporations operating in said State to remove all suits between said corporations and citizens of said State from the State to the United States courts—to the Committee on the Judiciary, when appointed.

Also, memorial of the Legislature of Nebraska, relative to swamp and overflowed lands in said State and other States—to the Committee on Public Lands, when appointed.

Also, memorial of the Legislature of Nebraska, urging the settlement of the claim of said State to the 5 per cent. on sales of public lands sold therein—to the same committee, when appointed.

Also, memorial of the Legislature of Nebraska, asking such legislation as will forever prohibit the payment of southern war claims—to the Committee on the Judiciary, when appointed.

Also, memorial of the Legislature of Nebraska, urging the establishment of a camp and military post east of Fort Robinson on the Niobrara River, in said State, for the protection of the settlers of that section from invasions of hostile Indians—to the Committee on Indian Affairs, when appointed.

Also, memorial of the Legislature of Nebraska, urging the removal of the Santee Sioux Indians to the Ponca reservation, and for the restoration to their former condition as public lands of all other lands now occupied by them—to the same committee, when appointed.

By Mr. WELLS: Memorial of the Legislature of Missouri, asking for an appropriation for the immediate improvement of the Missouri River at Saint Charles, Glasgow, Cedar City, and Kansas City, Missouri—to the Committee on Commerce, when appointed.

By Mr. YOUNG, of Tennessee: The petition of William A. Carswell, M. D., of Memphis, Tennessee, for one month and twenty-five days' pay as assistant surgeon in the United States Army prior to the 25th of March, 1861—to the Committee of Claims, when appointed.

IN SENATE.

THURSDAY, April 3, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PERSONAL EXPLANATION.

Mr. COKE. Mr. President, I should like to make a statement, so that the RECORD of yesterday may be corrected, if it is in order to have that done. When the vote was taken on the motion to lay the resolution of the Senator from Massachusetts [Mr. HOAR] on the table, it escaped my memory at the time that I was paired on all political questions with the Senator from Kansas, [Mr. INGALLS,] who was then absent; and when my name was called I voted "yea." My vote made no difference any way in the result; but I desire now to retract my vote and to state that if the Senator from Kansas had been here he would have voted "nay" and I should have voted "yea." I make this statement in justice to myself and the Senator from Kansas.

PETITIONS AND MEMORIALS.

Mr. WITHERS presented resolutions of the Legislature of Virginia, in favor of the speedy passage of measures by Congress looking to the prevention of the spread of diseases among cattle; which were referred to the Committee on Agriculture.

Mr. JOHNSTON. I present similar resolutions of the Legislature of Virginia and move that they be referred to the Committee on Agriculture.

The motion was agreed to.

Mr. INGALLS presented the petition of Mrs. John Gillespie and other ladies, of the States of Kansas, Wisconsin, Nebraska, and Indiana, and the Territory of Wyoming, praying for the passage of a law prohibiting the sale of intoxicating liquors in the District of Columbia, except for medicinal, mechanical, and scientific purposes; which was referred to the Committee on the District of Columbia.

Mr. KIRKWOOD presented the petition of W. H. Curtis and others, citizens of Guthrie County, Iowa, praying for the passage of a law granting a pension to Thomas Johnson, late private Company G, Twenty-seventh Ohio Volunteer Infantry, on account of injuries received during the late war; which was referred to the Committee on Pensions.

Mr. HAMLIN presented the petition of Zenas Herrick, of Kenduskeag, Maine, praying that his pension be extended back to the time when his injuries were received; which was referred to the Committee on Pensions.

Mr. COCKRELL presented a concurrent resolution of the Legislature of Missouri, in favor of the passage of a law by Congress granting pensions to the surviving soldiers of the Mexican war; which was referred to the Committee on Pensions.

He also presented a concurrent resolution of the Legislature of Missouri, instructing their Senators and requesting their Representatives in Congress to procure, if possible, the enactment of a law or the submission of a constitutional amendment preventing the Federal courts from exercising or assuming jurisdiction in causes wherein any county or other subdivision of a State is or shall be a party; which was referred to the Committee on the Judiciary.

BILLS INTRODUCED.

Mr. SAUNDERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 333) to grant homesteads to the Santee Indians residing upon their reservation in Knox County, State of Nebraska; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 334) to authorize the Secretary of War to construct a bridge across the Potomac River at or near the Three Sisters Islands; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 335) granting a pension to Simeon Crain; which was read twice by its title, and referred to the Committee on Pensions.

Mr. KIRKWOOD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 336) granting a pension to Philip Braunstetter; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 337) granting a pension to James H. Poland; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 338) granting a pension to Dederick Blanck; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 339) granting a pension to A. W. Richards; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 340) granting a pension to Thomas J. Anthony; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 341) granting a pension to Peter Getert; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 342) granting a pension to Charles Reed; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 343) relating to printing impressions from portraits and vignettes; which was read twice by its title, and referred to the Committee on Printing.

Mr. TELLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 344) to provide for the disposal of public lands; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 345) authorizing the President of the United States to appoint James Shields, of Missouri, a brigadier-general in the United States Army on the retired list; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. WALKER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 346) to carry into effect the tenth article of the treaty with the Pottawatomie Indians of February 27, 1867; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 347) for the relief of John B. Nix; which was read twice by its title, and referred to the Committee on Claims.

Mr. PADDOCK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 348) to establish a National Board of Agriculture; which was read twice by its title, and referred to the Committee on Agriculture.

COMMITTEE SERVICE.

Mr. WITHERS. I move that the name of Mr. KIRKWOOD, of Iowa,

be placed upon the Committee on Pensions in the place of Mr. BRUCE, of Mississippi, who declines to serve.

The VICE-PRESIDENT. The Chair hears no objection, and the order will be entered.

PAPERS WITHDRAWN AND REFERRED.

Mr. HAMLIN submitted the following orders, which were read:

Ordered, That the papers in the case of the claimants for damages arising from the collision of the United States sloop of war *Vandalia* with the Norwegian bark *Atlantic* (S. 1880, third session Forty-fifth Congress) be taken from the files and referred to the Committee on Foreign Relations.

Ordered, That the petition and papers in the case of William Collins be withdrawn from the files of the Senate and referred to the Committee on Commerce.

Mr. HAMLIN. There have been no adverse reports in either case, The VICE-PRESIDENT. The order will be entered in both cases. On motion of Mr. JOHNSTON, it was

Ordered, That the papers in the case of Jacob D. Felthousen and the heirs of William H. Atkins be taken from the files and referred to the Committee on Patents.

On motion of Mr. PENDLETON, it was

Ordered, That the petition and papers of W. R. Fee, praying an extension of his patent, be taken from the files and referred to the Committee on Patents.

Mr. HARRIS submitted the following order:

Ordered, That the memorial and papers in the matter of the claim of Callin Adams be taken from the files of the Senate and referred to the Committee on Claims.

Mr. EDMUNDS. Was there a favorable or an adverse report in that case?

Mr. HARRIS. There has been no report in the case.

The VICE-PRESIDENT. The order will be entered.

On motion of Mr. CARPENTER, it was

Ordered, That the papers in the case of the application of Commodore William B. Whiting for a pension be withdrawn from the files and referred to the Committee on Pensions.

SENATOR FROM NEW HAMPSHIRE.

The VICE-PRESIDENT. If there be no further business of the morning hour, the Secretary will report the Calendar of resolutions and concurrent resolutions in their order.

Mr. HOAR. I think it was informally arranged yesterday that the Senator from Delaware [Mr. SAULSBURY] would call up the New Hampshire case to receive the attention of the Senate so far as to have the reports read; and I desire after the reading of the reports simply to address the Senate for about two minutes only. I shall be absent on Monday when the case would otherwise come up. If the Senator from Delaware sees fit to call it up for that purpose now, I shall be obliged to him.

Mr. SAULSBURY. I will ask to have the case taken up now, if there is nothing before the Senate.

The VICE-PRESIDENT. It is a privileged question.

Mr. SAULSBURY. I ask first that the report of the committee be read.

The VICE-PRESIDENT. The Senate proceeds to the consideration of the New Hampshire case, and the report of the Committee on Privileges and Elections will be read.

The Chief Clerk read the following report, submitted by Mr. SAULSBURY April 2:

The Committee on Privileges and Elections, to whom were referred the credentials of Hon. Charles H. Bell, claiming a seat in the Senate as a Senator from the State of New Hampshire, have had the same under consideration, and ask leave to make the following report:

The term of Bainbridge Wadleigh, a Senator from the State of New Hampshire, expired by constitutional limitation on the 3d day of March, 1879, in a recess of the Legislature, and on the 13th day of March, 1879, Mr. Bell was appointed in his place by the executive.

By reason of a change in the constitution of that State, which took effect in October, 1878, two Legislatures were chosen in that year, one, under the old constitution, in March, whose term of office commenced in June, 1878, and will terminate in May, 1879; the other, under the new constitution, was chosen in November to serve for two years, the term commencing in June, 1879.

The Committee on Privileges and Elections of the Senate in the Forty-fifth Congress, to whom was referred the question which of these two bodies had the right to choose a successor to Mr. Wadleigh, was of opinion, and so reported to the Senate, that under the act of 1866 (Revised Statutes, section 14) the last-named Legislature was entitled to elect, because it was the Legislature chosen next preceding the expiration of Mr. Wadleigh's term of service. In the opinion of the committee this report and the action of the Senate in adopting it are not important in the settlement of the question now presented.

The Constitution of the United States, article 1, section 3, provided as follows:

"The Senate of the United States shall be composed of two Senators from each State chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

"Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year, and of the third class, at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies."

It has been noticed that this claimant bases his right to a seat in the Senate not upon the fact that a term filled by the Legislature of New Hampshire had become vacant during a recess of the Legislature, but upon the fact that the executive claims the right to make a temporary appointment at the beginning of a term which the Legislature has not undertaken to fill.

The committee cannot find in the Constitution any sufficient warrant for this claim. If we look at the provision authorizing the governor to make temporary appointments independently of its connection with the rest of the section, we think it is manifest that the authority is limited to filling vacancies which happen in a term which had been previously filled by the Legislature. If it was intended to vest in the executive the power to make temporary appointments to terms for

which no person had been chosen by the Legislature, why should the words "happen by resignation or otherwise" have been added to the word "vacancies?" They certainly did not render it more comprehensive, and must have been designed to limit and restrict its meaning to vacancies occurring from accident or some unforeseen event. If any doubt, however, existed as to the meaning of the language referred to, when considered unconnected with the rest of the section, such doubts would be removed by construing the provisions of the section together. Applying to them the rules recognized for the construction of statutes and constitutional provisions, the committee are forced to the conclusion that the Legislature alone is empowered to choose a Senator upon the expiration of a senatorial term, and that the executive can only make temporary appointments to fill vacancies occurring in a term which has been previously filled. It is well known that in the convention which framed the Constitution this subject received careful consideration. After it had been determined that the States should have equal representation in the Senate, the manner of choosing Senators was considered; various propositions were submitted, and, among others, appointments by the executives of the States. Finally it was determined to vest in the Legislature the power of choosing Senators, and in the executive the power to make temporary appointments, if vacancies should happen in the office after it had been filled, until such time as the Legislature could again act. This, it seems to the committee, was the obvious intent of the Constitution, gathered, not only from the language of the entire section under consideration, but also from the debates in the convention in reference to its provisions.

Nothing in the history of the Senate for the last fifty years is at variance with the views here presented.

The records of the Senate show down to the year 1817 a number of appointments were made by State executives of persons to succeed Senators whose terms of service had expired, and that the persons so appointed were admitted to seats in the Senate.

The first case was that of William Cocke, of the State of Tennessee.

This State was admitted into the Union in 1796. In the month of August, of that year, William Cocke and William Blount were chosen Senators in Congress by the Legislature. By lot they were assigned to the first and second classes of the three classes directed to be formed by the article of the Constitution above quoted, and Mr. Cocke, having drawn the term which expired on the 3d day of March, 1797, during a recess of the Legislature, was appointed by the governor to be his own successor on the 22d of April, 1797, and he was admitted to a seat without objection.

The second case was that of Uriah Tracy, a Senator from the State of Connecticut, whose term expired on the 3d of March, 1801. Under an appointment by the governor he was admitted to a seat on the 4th day of March, 1801, after a heated discussion and by a party vote of 13 to 10.

This precedent was followed on the next day by the admission of Mr. Hindman, of Maryland; by the admission of Mr. Condit, of New Jersey, in 1803; Mr. Anderson, of Tennessee, and Mr. Smith, of Maryland, in 1809; Mr. Cutts, of New Hampshire, in 1813; and Mr. Williams, of Tennessee, in 1817; all executive appointments to fill places made vacant by the expiration of full terms of service during recesses of Legislatures, and all were admitted without discussion and without objection.

But in 1825 the term of James Lanman, of Connecticut, expired during a recess of the Legislature. In anticipation of the vacancy, he had been appointed by the governor as his own successor. His credentials were presented on the 4th day of March, 1825, and after a protracted debate the Senate refused to admit him to a seat. No record of this debate has been preserved, and the committee have not the advantage of the reasoning by which the Senate was guided in its action. Enough, however, remains to show that the Senate decided that a vacancy authorizing an appointment by the executive had not "happened" within the meaning of the Constitution. It was held, and, in the opinion of this committee, correctly, that the Constitution conferred upon the Legislature, and upon it alone, the power to appoint a Senator for the beginning of a new term; and it seems to the committee that this decision is clearly in accord with the spirit and meaning of the article of the Constitution already quoted.

This section confers upon the Legislature the right and imposes upon it the duty of choosing Senators who are to serve for six years.

In every one of the States a Legislature must be in session at some time preceding the expiration of a senatorial term. We know as a fact that at the time of the adoption of the Constitution these sessions were mostly annual, and, as now, those not annual were biennial. After the first assignment of Senators to classes the term of office was fixed, and, under the Constitution, would expire at a time certain. When, therefore, the first clause of the third section, first article, of the Constitution directed that Senators should be chosen by the Legislatures, it appears most manifestly to have been the purpose of its framers to give exclusive power to the Legislature to make the choice, unless, as provided by the last clause, vacancies should "happen" by resignation or otherwise during a recess of the Legislature, when the executive should make temporary appointments until the next session of the Legislature.

The power to make temporary appointments was conferred upon the executive because the accidents of death, resignation, expulsion, or acceptance of another office could not be foreseen or provided for by the Legislature. In the one class of cases the time when a term would expire was fixed by law and was well known. There could be no doubt or uncertainty in regard to it, and in such a case a vacancy could occur only by the willful disregard by the State in framing its organic law, or by the Legislature of constitutional obligations. In such a case a vacancy could not "happen," or occur by chance, casualty, or other event that could not be guarded against.

The decision in Lanman's case has been for more than fifty years regarded as a correct exposition of the Constitution. During this long lapse of years its authority has not been questioned, and it has guided the action of legislatures and of executives of States.

Many cases have occurred when, under like circumstances, for months, and in some instances for one or two years, and even a longer time, States have been represented upon the floor of the Senate by a single Senator, and for the reason that the decision in Lanman's case was regarded as final and conclusive of the question. The following are cases of this character:

Cases of unfilled seats or vacancies at beginning of senatorial terms by reason of non-election.

Maine.—Vacancy from March 4, 1853, till February 23, 1854, when William Pitt Fessenden took the seat under an election.

Connecticut.—Vacancy from March 4, 1851, to May 12, 1852, when Isaac Toucey presented credentials of election by Legislature.

Pennsylvania.—Vacancy from March 4, 1855, to January 18, 1856, when William Bigler was seated on an election by the Legislature.

Maryland.—Vacancy from March 4, 1843, till January 2, 1844, when James Alfred Pearce, elected by the Legislature, took the seat.

North Carolina.—Vacancy from March 4, 1853, to December 6, 1854, when David S. Reid's certificate of election was presented.

Indiana.—Vacancy from March 4, 1855, to February 4, 1857, when Graham N. Fitch was admitted on credentials of legislative election, which was contested, and the contest not decided till late in the spring of 1858.

Missouri.—Vacancy from March 4, 1855, to January 12, 1857, when James S. Green was admitted on a legislative election.

California.—Vacancy from March 4, 1855, to February 15, 1857, when William M. Gwin presented himself under an election by the Legislature.

Oregon.—Vacancy from March 3, 1859, until December 5, 1860, when Edward D. Baker took the seat under a legislative election.

It is said, however, that the Senate departed from the rule in Lanman's case in the case of Mr. Sevier, appointed as his own successor by the governor of Arkansas in the year 1837.

The report in this case, made by a committee of the Senate, shows that the State of Arkansas was admitted into the Union in the year 1836, and in September of that year elected two Senators, Mr. Sevier and Mr. Fulton. Under the constitutional rule Mr. Fulton was allotted to the second class of Senators, and Mr. Sevier to the third, and his term of service expired on the 3d day of March, 1837, during a recess of the Legislature.

A committee of the Senate, to whom the credentials of Mr. Sevier were referred, after quoting the decision in Lanman's case, say:

"The decision seems to have been generally acquiesced in, nor is it intended by the committee to call its correctness in question. The principle asserted in that case is, that the Legislature of a State, by making an election themselves, shall provide for all vacancies that must occur at stated or known periods, and that the expiration of a regular term of service is not such a contingency as is embraced in the second section of the first article of the Constitution."

And the committee concludes by saying:

"The case under consideration is wholly different in principle. The time when Mr. Sevier was to go out of office under his election * * * was decided by lot under the provisions of the Constitution on that subject, * * * and therefore they recommend that Mr. Sevier be admitted."

The case in its facts was identical with that of Mr. Cocke, of Tennessee, settled in 1797, but in all material points differs from the one now under consideration.

The committee, from every view of the case, are forced to the conclusion that the vacancy occasioned by the expiration of the term of Senator Wadleigh cannot be filled by executive appointment, and therefore report the following resolution, and recommend its passage:

Resolved, That Hon. Charles H. Bell is not entitled to a seat as a Senator by virtue of the appointment by the executive of New Hampshire.

E. SAULSBURY.
BENJ. H. HILL.
J. E. BAILEY.
F. KERNAN.
GEO. S. HOUSTON.
Z. B. VANCE.

Mr. COCKRELL. The minority report had better be read also.

The VICE-PRESIDENT. The minority report will be read.

The Chief Clerk read the views of the minority, submitted by Mr. HOAR, April 2, as follows:

1.

The undersigned members of the Committee on Privileges and Elections, to whom were referred the credentials of Hon. Charles H. Bell, claiming to be admitted as a Senator from the State of New Hampshire, dissent from the conclusions of a majority of the committee.

The Constitution, article 1, section 3, provides as follows:

1 A.

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

"Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year, and of the third class, at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies."

The term of office of Hon. Bainbridge Wadleigh, a Senator from the State of New Hampshire, expired on the 3d day of March, 1879.

By the statute of the United States, approved July 25, 1866, re-enacted Revised Statutes, 814, it is provided:

"The Legislature of each State, which is chosen next preceding the expiration of the time for which any Senator was elected to represent such State in Congress, shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a Senator in Congress."

Under the new constitution of New Hampshire, a Legislature was chosen in November, 1878, for a term to begin in June, 1879. That Legislature cannot elect a Senator until June, 1879, because, by the constitution of the State, its legislative powers will not vest until then. Its predecessor could not elect a Senator at its last session, and cannot now, if called together in special session, because it was not the Legislature last chosen before the expiration of Mr. Wadleigh's term.

The governor of New Hampshire, on the 13th of March, 1879, made temporary appointment of Hon. Charles H. Bell, until the next meeting of the Legislature. Mr. Bell now presents himself to claim the seat. The only question is, has a vacancy happened by "resignation or otherwise," so that the executive was authorized to make this appointment?

We are aided in determining this question by considering the leading purpose of the constitutional provision, the natural meaning of the words, and the uniform construction given to similar language used elsewhere in the Constitution, and the previous judgments of the Senate in like cases.

The purpose of the Constitution is to have the Senate always full. This is the interest not merely of the State whose right to elect is in question, but of the whole country, for whom the Senator is to legislate, whose servant he is, and to whom his service is due. To this end the Constitution provides that "the Senate shall be composed of two Senators from each State," and authorizes Congress to make regulations as to the time and manner of electing them. Congress has exercised this authority in the statutes cited, so that no failure of duty of either branch of the Legislature may interrupt the State's representation in the Senate. To meet the case of a vacancy happening in the recess of the State Legislature, the Constitution clothes the executive with the power of temporary appointment. The purpose to keep the representation of the State always full requires the construction which authorizes such appointment when the vacancy happens at the beginning of the term as much as if it happen at any other time. The authority given to the governor is to appoint "until the next meeting of the Legislature," which, literally construed, would require the Senator so appointed to vacate his seat on the day the Legislature meet. Yet the Senate, in furtherance of the controlling purpose of the Constitution that the places shall be always full, has uniformly held that the Senator so appointed retains his seat until the Legislature choose his successor or adjourn without making a choice.

The authority to appoint is vested in the executive, "if a vacancy happen." There is no distinction indicated between vacancies which happen when the term begins and vacancies which happen later. There can be no reason suggested for such a distinction. It is said that the term "vacancy" is not properly applied to offices whose term has expired by limitation at a fixed time, but only to terms which have once been filled.

But the Constitution expressly declares "the seats of the Senators shall be vacated

at the expiration of the sixth year, &c. Did the Constitution mean to declare that to vacate a seat does not create a vacancy in it?

But it is said a vacancy which occurs at a certain time fixed by law is not a vacancy which "happens;" that the Constitution meant only to vest the appointing power in the executive in case of the vacancy occurring by reason of events which cannot be certainly foreseen; and this is the strong point of those who differ with us. On the contrary, we affirm that nothing is better settled in the construction of the Constitution and of legislation under it than that the words "vacancies happening" include the case of offices which have a fixed term which has expired, and which are vacant because no new appointment has been made. Article 2, section 2, of the Constitution, in its provision for the appointment of officers, declares:

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session."

Under this provision the President exercises the undisputed power of filling offices which have a term fixed by law which expires in the recess of Congress. Most important rights of the people and of private citizens depend on the legality of such appointments, which the construction contended for by the majority of the committee must overturn. In Revised Statutes, section 1769, "the President is authorized to fill all vacancies which may happen during the recess of the Senate by reason of death, or resignation, or expiration of term of office."

It is not the ending of the term, but the absence from the office of any person authorized to fill it, to which the word "happen," which expresses contingency, is applied. It is certain that the term will end. It is still uncertain whether the office will be vacant, because that depends on the contingent event of the Legislature having filled it. It is in accordance with the custom of our language to apply the word "happen" to the simultaneous occurrence of two events, both of which are certain to take place. "If the fourth of July happen on Sunday, the next day shall be a legal holiday." "If the last day of grace happen to be a holiday, the note shall be payable on the day preceding." *A fortiori* the word may be appropriately used to express the occurrence at the same time of two events, one of which is contingent. If there happen to be no Senator in the office, the authority of the executive exists.

The question has frequently arisen for judgment in the Senate. By a line of decisions unbroken with one possible exception, it has been held that the governor of a State is authorized to fill a vacancy existing at the beginning of a senatorial term.

April 27, 1797, William Cocke was appointed a Senator from the State of Tennessee by the governor, his term having expired on the 3d of the preceding month. On the 15th of May, 1797, he presented his credentials, and was admitted to take the oath of office without objection or debate.

March 3, 1801, the seat of Uriah Tracy, of Connecticut, became vacant by the expiration of his term of office. On the 30th of February, 1801, the governor of Connecticut reappointed him a Senator. Objection being raised to his credentials, he was admitted to the oath by a vote of yeas 13, nays 10.

William Hindman, of Maryland, was afterward, on the next day, admitted to the oath on like credentials, without objection.

John Condit, of New Jersey, November 14, 1803, appointed a Senator from New Jersey, to fill the vacancy at the beginning of the term, was admitted to take the oath. Mr. Condit's credentials had been presented October 17, previous.

March 4, 1809, Samuel Smith, of Maryland, appointed on that day by the governor of his State to fill the vacancy caused by the expiration of his own term, was admitted to his seat and sworn.

March 4, 1809, Joseph Anderson, of Tennessee, took his seat by virtue of an appointment from the governor of that State.

May 24, 1813, Charles Cutts, of New Hampshire, appointed by the executive to fill the vacancy during the recess of the Legislature, was, without question, admitted to the oath. This vacancy was at the beginning of the term.

March 4, 1817, John Williams, of Tennessee, appointed a Senator by the executive of the State, to hold said appointment until the meeting of the next session of the Legislature, was admitted. His credentials were filed on the 10th of the preceding February.

March 4, 1825, James Lanman, of Connecticut, presented his credentials of his appointment by the governor of that State, "to take effect immediately after the 3d of March, 1825, and to hold the seat until the next meeting of the Legislature." Mr. Lanman was refused the seat by a vote of 23 to 18. The case was referred to a select committee, who report the facts, but state neither reason nor conclusion. The committee say they have looked into the Journals of the Senate, and that the cases of Cocke, Tracy, Anderson, and Williams are the only analogous cases they could find. There is a brief sketch of the debate in Niles's Register, volume 28, page 32, but no statement of the reason on which any Senator proceeded. There is no historical evidence from which we can determine whether the Senate rejected Mr. Lanman on the ground that the governor could not fill a vacancy happening at the beginning of the term, or on the ground that the governor could not lawfully make the appointment in anticipation, before the vacancy occurred, and before he could possibly know whether the Legislature might be called together before that time. All the precedents which the committee cite, except that of Mr. Cocke, were cases where the appointment was made not when the vacancy happened in the recess of the Legislature, but only when the governor thought it might happen. In the case of Cocke, the date of the appointment is not given in the Journals, although in fact it was after the vacancy. The committee do not cite the case of Hindman, Smith, or Condit, nor the then recent case of Cutts, in deciding which some Senators then in office took part, where the appointments were made after the vacancy existed. There is, therefore, nothing to show whether the Senate meant to overrule all the precedents, some of which were not brought to its attention, or only so many of them as recognized the right of the executive to appoint when a vacancy had not happened.

Judge Story, Constitution, section 727, note 2, says:

"In the case of Mr. Lanman, a Senator from Connecticut, a question occurred whether the State executive could make an appointment in the recess of the State Legislature, in anticipation of the expiration of the term of office of an existing Senator. It was decided by the Senate that he could not make such an appointment. The facts were that Mr. Lanman's term of service as Senator expired on the 3d of March, 1825. The President had convoked the Senate to meet on the 4th of March. The governor of Connecticut, in the recess of the Legislature, (whose session would be in May,) on the 9th of the preceding February appointed Mr. Lanman as Senator, to sit in the Senate after the 3d of March. The Senate, by a vote of 23 to 18, decided that the appointment could not be constitutionally made until after the vacancy had actually occurred. (See Gordon's Digest of the Laws of the United States, 1827. Appendix, note 1, B.)"

In regard to the same case, the National Intelligencer of March 8, 1825, says, in an editorial note:

"An important constitutional question was yesterday decided in the Senate, by the refusal to admit Mr. Lanman to a seat in the Senate under a commission from the governor granted before the expiration of Mr. Lanman's late term of service. This is the first time the question has been adjudicated under such circumstances as to form a precedent; and we presume it may now be considered as a settled construction of the constitutional provision that a vacancy must have literally 'happened' or come to pass before an appointment can be made to fill it."

The State of Arkansas was admitted to the Union in 1836. In October, 1836, the Legislature of that State elected Ambrose H. Sevier and William S. Fulton Senators. On the allotment of the Arkansas Senators to their respective classes, as required by the third section of the first article of the Constitution, Mr. Sevier was

placed in the class of Senators whose term of service expired on the 3d of March, 1837. The Legislature of Arkansas had no opportunity to fill the vacancy, and were not in session after the result of the allotment was known in that State. January 17, 1837, the governor of Arkansas appointed Mr. Sevier to fill the vacancy which would take place on the 3d of March. When Mr. Sevier's credentials were presented at the winter session, Mr. Webster suggested a doubt of the validity of the appointment, in which Mr. Sevier himself concurred. At the March session the credentials were referred to the Committee on the Judiciary. Mr. Grundy, from that committee, reported in favor of Mr. Sevier's admission, and he was admitted.

Mr. Grundy's report states that it is not intended by the committee to call in question the correctness of the decision in the Lanman case; that that case proceeded on the ground "that the Legislature should provide for all vacancies which must occur at stated and known periods, and that the expiration of a regular term of service is not such a contingency as is embraced in the second section of the first article of the Constitution."

The report further says:

"The case now under consideration is wholly different in principle. The time when Mr. Sevier was to go out of office was decided by lot."

From this review of the judgments of the Senate it appears that in every case in which a Senator has been appointed by the executive after the happening of a vacancy by the expiration of the term without an election of a successor by the Legislature, the person so appointed has been admitted to his seat. There is no indication that the Senate ever denied or doubted the correctness of this construction of the Constitution, except the unsupported statement of Mr. Grundy of the ground of a decision made twelve years before, a statement which nothing in the Journal or the debates confirms, and which is opposed to the understanding of Judge Story and the contemporaneous article in the Intelligencer.

The second section of the first article of the Constitution provides, "When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies." In 1837 the law of Mississippi fixed the time for the election of Representatives in November. The President having called a special session of Congress to meet in September, the governor of Mississippi, on the 13th of June, issued writs for an election in July for two Representatives to Congress to fill said vacancies until superseded by the members to be elected at the next regular election in November.

At this July election Messrs. Gholson and Claiborne were elected and claimed the seats. Their claim was referred to a committee, of which Andrew Buchanan was chairman, who reported in favor of their right to seats for the full term. They say in their report:

"The Constitution authorizes the executive power of the States respectively to order the filling of all vacancies which have actually happened, in the mode therein pointed out, no matter how the vacancy may have happened, whether by death, resignation, or expiration of the term of members previous to the election of their successors."

In the debate John Quincy Adams said he believed, in relation to offices, that every one happens to be vacant which is not full; and that, he believed, was the meaning and sense of the Constitution, whether the vacancy occurred from casualty, the regular course of events, expiration of term, or other cause.

The claimants were admitted to their seats. In November following, Messrs. Prentiss and Wood were elected for the same term. At the next December session the resolution declaring Gholson and Claiborne elected was rescinded, but a resolution was also adopted, by the casting vote of Speaker James K. Polk, that Prentiss and Wood were not members. So that no inference can properly be drawn from that case; and it is of no value, except so far as weight may be attached to the opinions of John Quincy Adams and James K. Polk, both favoring the construction of the Constitution for which we contend.

Appended to the report in the Mississippi case are opinions of two of the most distinguished Attorneys-General of the United States, Roger B. Taney and William Wirt, in which they discuss the meaning of the phrase "vacancies that may happen during the recess" with reference to the power of the President to fill an office which is vacant in the recess, because the Senate adjourned without acting on a nomination, the original vacancy having happened during the session. Both these eminent jurists agree that the term "happen" is equivalent to "happen to exist." "If it come to pass that there be a vacancy," Mr. Taney says:

"The Constitution was formed for practical purposes, and a construction that defeats the very object of the grant of power cannot be a true one. It was the intention of the Constitution that the offices created by law should always be full."

We submit, therefore, that the natural and ordinary meaning of the language employed, the purpose which the framers of the Constitution meant to accomplish, the unbroken current of decisions in like cases, and the uniform construction given to the same language when used elsewhere in the Constitution and in legislation in like cases, concur in supporting the interpretation which establishes Mr. Bell's claim. The office of Senator is a continuous office. When the Senator is duly elected by the Legislature beforehand no vacancy exists within the meaning of the Constitution. His taking the oath of office relates back to the beginning of the term and preserves the continuousness of the succession. He is when on his way to take the oath deemed to be a Senator and privileged from arrest. A vacancy happens, and only happens when the Legislature has failed to make due election, or the person chosen declines the appointment, or when the office once filled is vacated by death, resignation, or otherwise.

But if we adopt the narrowest possible construction imputed by Mr. Grundy in the Sevier report, the decision in the case of Lanman, the doctrine of the Sevier decision itself is enough for the purpose of this case. If the failure of the Arkansas Legislature to be in session after the expiration of Mr. Sevier's term was decided by lot, made the vacancy contingent in the narrowest sense of that term, so that the governor could appoint, certainly the fact that there is no Legislature in the State able to act constitutes such a contingency. Whether it so happens that the person once chosen is unable to remain in office, or it so happens that the Legislature cannot meet and choose, the contingency of a vacancy in the office has occurred. The six months at the end of the term are no more important than six months at its beginning. The Constitution makes equally careful provision for either.

GEO. F. HOAR.
ANGUS CAMERON.
JNO. J. INGALLS.

Mr. HOAR. I move to amend the resolution which is pending by striking out the word "not" before "entitled;" so as to read:

Resolved, That Hon. Charles H. Bell is entitled to a seat as a Senator by virtue of the appointment by the executive of New Hampshire.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Massachusetts, [Mr. HOAR.]

Mr. HOAR. Mr. President, I shall not have the good fortune to be present on Monday when this case is to be considered more fully, and I desire now merely to say a word or two in addition to the arguments which are made in the minority report, or rather to sum up what is there said.

I will state the precise question which this case presents. The Constitution providing that the office of Senator shall be vacated at the

end of six years, goes on further to say that if there happen to be a vacancy by death, resignation, or otherwise during the recess of the Legislature, the governor may appoint. Precisely the same phraseology is used with reference to the filling of vacancies in civil offices during the recess of the Senate by the President. Substantially the same phraseology is used with reference to the right of the governor of a State to issue writs for elections in cases of vacancy in the representation in the House of Representatives.

Now, there is scarcely a question which can arise under our Constitution in regard to which the authorities are so concurrent or of such weight. There are ten precedents of the Senate itself, beginning with a case which occurred in the year 1797, when many of the framers of the Constitution were in the Senate; and they all concur in holding that the governor may appoint if the vacancy happen by reason that the constitutional term of a Senator had ended when the Legislature was not in session and the Legislature has made no provision to fill it. There is one case, the case of Mr. Lanman, where there was a decision which is claimed to be different; but in the case of Mr. Lanman the governor not only made the appointment but he made the appointment before the vacancy arose, when he could not know whether the Legislature would be in session or not. The committee who reported in the case of Lanman express no opinion and state no reason, but simply say they have looked into the precedents and there are the following precedents bearing upon the case; and of the eight or ten precedents which had then been made in the Senate they cite the three where the governor made the appointment before the vacancy happened, and do not cite the others, one of which had occurred within six or eight years and when many men then in the Senate had been present. So the question arises whether the Senate in the Lanman case meant to decide that the governor could not fill a vacancy existing at the beginning of a senatorial term, or only meant to decide that the governor could not fill a vacancy before it existed and when he could not know whether the Legislature would be called together and be able to fill it themselves.

On which of those two grounds did the Lanman case proceed? Judge Story, in his treatise on the Constitution, declares that it proceeded on the former, that is, that the Senate held that the governor could not fill a vacancy before it arose. The National Intelligencer of the next day, as we have said in the views of the minority, in an editorial article, says that the question arose in the Senate the day before whether a vacancy could be filled by the governor before it arose, and it was held that it could not.

I hold in my hand Gordon's Digest of the laws of the United States, published in 1827, two years after the Lanman case was decided in the Senate. I am informed by the very highest judicial authority that Mr. Gordon was one of the most accomplished and able members of the Pennsylvania bar of his day, and that he was regarded in that State then, and is now, as one of the very highest authorities for accuracy and legal learning and ability, and for historical accuracy, which that State affords. I will read what Mr. Gordon says in his Digest:

Mr. CARPENTER. On what page?

Mr. HOAR. Page 735, appendix No. 1, note B. After reciting the facts, Mr. Gordon says:

Upon these facts the question was raised whether the appointment of Mr. Lanman was constitutional, having been made before a vacancy in the representation of the State of Connecticut in the Senate of the United States had occurred. On the resolution offered to admit Mr. Lanman to be qualified and take his seat in the Senate, it was determined, 23 to 18, that he was not entitled to a seat.

To oppose this declaration of Judge Story, to oppose this contemporaneous newspaper report and this declaration of Mr. Gordon, is merely a statement in Mr. Grundy's report in the Sevier case, which he distinguishes from the Lanman case, made twelve years after, of his opinion that the Senate proceeded on the ground that the governor could not fill a vacancy arising at the beginning of a term. Therefore I think we are warranted in saying that the unbroken current of senatorial precedent from the beginning of the Government until to-day is that the governor is entitled to fill a vacancy whenever it happens, whether at the beginning or the end of the term, so that it happen when the Legislature is not in session, until the next meeting of the Legislature, when the right of the governor in the premises is determined.

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

Mr. HOAR. Certainly.

Mr. CARPENTER. I do it for information. I want to vote with the Senator if I can on this question. The difficulty in my mind is that I think the emphatic word in the constitutional provision is "happen." Take the case of Wisconsin. Our Legislature assembles on the first Monday of January. It has to elect to fill up the vacancy that is to occur in March. The Legislature generally sits until about the last of April. Suppose they begin on the day fixed by the act of Congress to ballot for Senator; they make no choice; they ballot up to and past the 4th of March without making an election. A vacancy then occurs; by the Constitution the term expires, and the Legislature sits still, with that vacancy running on, balloting for thirty days and unable to make a choice, and finally adjourn without making a choice. Could the governor then appoint a Senator upon the ground that that was a vacancy happening in the recess of the Legislature?

Mr. HOAR. I think not; and for the reason not that it would not be a vacancy, but that the power is qualified by the other words, as uniformly construed, that the governor may appoint "until the next meeting of the Legislature." Therefore, if the Legislature should meet after the vacancy occurred, the governor not having appointed, and fail to elect, the literal answer would be that in the particular case the Senator supposes the vacancy would not have happened in the recess; but I suppose the Senator could easily vary that by supposing the Legislature not to be in session on a particular day, and therefore I make the other answer, which is that the governor's right to appoint until the next meeting of the Legislature is uniformly construed to mean that after the Legislature has met the entire constitutional authority of the governor, so far as relates to that vacancy, is gone.

To return, then, to the meaning of the term "happen," I do not propose to repeat the argument which is made in the printed views of the minority which have been read, which covers the question as far as I can understand it; but I simply call the attention of the Senate to the concurrence of authority upon this question. There is this unbroken, unshaken, unopposed series of senatorial precedents. In the next place, the language of the Constitution in regard to the filling of vacancies in civil offices being exactly the same *verbatim*, not only the uniform construction which is well known but the expression of opinion of some of the greatest legal authorities in favor of this construction is to be found. The question was submitted to Chief-Justice Taney when Attorney-General under Jackson, and Chief-Justice Taney replied:

The Constitution was formed for practical purposes, and a construction that defeats the very object of the grant of power cannot be a true one. It was the intention of the Constitution that the offices created by law should always be full.

The term "happen" is equivalent to "happen to exist" "if it come to pass that there should be a vacancy."

So that in regard to the meaning of this language in the Constitution we have the great authority of Chief-Justice Taney. William Wirt gave a like opinion, cited in the views of the minority. The question arose in the House of Representatives and John Quincy Adams and James K. Polk, agreeing in opinion in regard to almost nothing else under the sun, concurred in attributing to the Constitution the meaning which we attribute to it.

I do not see the honorable Senator from Indiana [Mr. VOORHEES] in his seat, but I desire to appeal to his colleague. The Senator is now returning to his seat. I was about to state that I had very high authority for the declaration that among the most distinguished jurists of the State of Indiana is the late Judge Stuart. The question came up in regard to the meaning of a clause in the State constitution, and Judge Stuart, who I am informed is one of the very highest legal authorities in that State, discussed the meaning of the similar phrase in the Constitution of the United States, the one we are now discussing. Judge Stuart says:

There is no technical or peculiar meaning to the word "vacant" as used in the Constitution. It means empty, unoccupied, as applied to an office without an incumbent. There is no basis for the distinction urged that it applies only to offices vacated by death, resignation, or otherwise. An existing office without an incumbent is vacant, whether it be a new or an old one.

That was in the case of *Stocking vs. The State*, 7 Indiana Reports, page 326, followed in the case of *Collins vs. The State*, 8 Indiana Reports, page 344.

I desired, Mr. President, to add these authorities to those cited in the minority report, not to discuss the general question to-day.

Mr. SAULSBURY. The understanding was yesterday, as stated by myself, that the question should come up on Monday next, but the Senator from Massachusetts had to go away and of course we agreed that the matter should come up temporarily to-day. If any other Senator desires to discuss the subject to-day I shall not move to postpone its further consideration until the time agreed upon.

My purpose in rising was simply to say that notwithstanding the agreement was that the matter should come up on Monday for consideration, I shall not now move the postponement of its consideration until that day if any other Senator desires to make a speech on it to-day, the agreement being that we would take the matter up on Monday for consideration. I do not know whether any other Senator desires to speak on the question to-day. So far as I know, on this side of the Chamber there is none.

Mr. EDMUNDS. I only wish to say at this time, in reference to what the Senator from Massachusetts has stated in quoting from the opinions of the Attorneys-General, that while I am at present inclined to agree in the conclusions to which the Senator from Massachusetts has come, very decidedly—I think he is right—I should not wish to have those opinions of Taney and Wirt taken as expressing the opinion that I hold about the power of the President of the United States to fill a vacancy by construing the words "and if vacancies happen" by inserting after the phrase the words "to exist," because that would carry to the President of the United States the power to fill all the offices of the United States by men of his own choice at all times when the Senate was not in session, and even with the very men year after year whom the Senate had declined to advise him to appoint when they had been nominated. Those opinions, the one of Taney in particular,—I do not remember about the other,—were given to sustain the power of the President after a vacancy had occurred during a recess of the Senate by expiration of term, and so far I entirely

agree with him as to the power of the President to fill that until the termination of the next session of the Senate. But after that next session had occurred and somebody had been nominated to fill the place and rejected, and the Senate had then adjourned, I cannot agree that there still existed a power in the President of the United States to fill up the office again, under the original power as to a vacancy happening; and it could only be done in the way that the ingenious mind of Chief-Justice Taney suggested, the only way I think that could possibly have been invented, by importing into the Constitution the words "happen to exist" instead of "occur" or "happen." Therefore it was held that the President might continue to fill up, and by the same person, if you please, constitutionally considered of course by the same person, all the time. I do not believe in that.

I think the Senator from Massachusetts has pretty nearly demonstrated that the actual decisions of the Senate are not adverse to the claim of Mr. Bell from New Hampshire, but I think the error into which the public or the governors of the States have fallen is in talking about terms in senatorial office. Every Senator has a term; that is true; but the office is a continuous office. The office of two Senators from a State never expires, and it has not any periods in it as respects the office. It has periods as it respects the person who is to fill them, who must go again to his State that is to have the person renewed and again inducted; but the office is perpetual and continuous. Therefore, when the Constitution speaks of a vacancy happening in the office of Senator, it is not speaking of any particular period of six years or of three years or of one, if the Legislature has filled up the vacancy before, but it is speaking of a vacancy in the representation of the State, the filling of which is necessary to fulfill the purposes of the Government, and wherever that vacancy occurs or happens, (because in the Constitution I think the two expressions mean exactly the same thing,) from whatever cause, and as the Constitution says, "by resignation, or otherwise," without specification in any way, it is to be filled. The highest mission of constitutional duty is to have that vacancy filled, until, as the Constitution limits it, the governing power of the State, the Legislature next coming after the occurring of this vacancy, may have an opportunity to fill it; and there the Constitution limits the power of the executive, because—

Mr. HILL, of Georgia. Mr. President—

Mr. EDMUNDS. Because it says (if the Senator will pardon me a moment until I finish my sentence) that the governor may fill until the next meeting of the Legislature. That having occurred, his power is of course exhausted, and he cannot fill again. Now I will listen to the Senator from Georgia.

Mr. HILL, of Georgia. I should like to ask the Senator from Vermont, knowing his ability as a lawyer, one or two questions, that for my own information I may learn his opinion. By the law of California the election for members of the House of Representatives for the Forty-sixth Congress does not occur until next September. By the Constitution, when a vacancy happens in the representation in the House, the governor must issue a writ of election and order that vacancy to be filled. Does the Senator from Vermont hold that the governor of California could issue a writ of election for the election of members of the House of Representatives previously to September next? Could he, after the 4th of March, have issued a writ for the election of Representatives to the Forty-sixth Congress, for this extra session?

Mr. EDMUNDS. Yes, Mr. President, I hold that he can.

Mr. HILL, of Georgia. I wish to ask the Senator one more question, and then he can give his reasons for both answers at his leisure. Does the Senator hold that the President, under the power to fill vacancies, could appoint a chief-justice or an associate justice of the Supreme Court, if there should happen to be a vacancy on the bench by death, during the recess of Congress? For instance, suppose Congress has adjourned, and during that recess, before the next session, a justice of the Supreme Court should die. Does the Senator hold that the President of the United States could appoint one to fill that vacancy until the meeting of Congress?

Mr. EDMUNDS. I certainly have that impression, Mr. President.

Mr. HILL, of Georgia. I wish to know the Senator's opinion as a lawyer, knowing that he is able to give a good answer.

Mr. EDMUNDS. I do not remember that there is any distinction in the Constitution as to the powers of the President as to the nature of the office that he is to fill. The Constitution says that the President "shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States," &c., and that whenever a vacancy occurs in any office during the recess of the Senate the President of the United States may fill that vacancy by granting a commission that shall expire at the end of the next session. There is no limitation or qualification.

Of course, I am not insensible to the argument implied in the question of my honorable friend as to the office of a judge, be he a judge of the supreme court or of the circuit court or of the district court, or any other of the judicial courts of the United States, which is to be held during good behavior and not on a definite term; but inasmuch as the interests of the administration of justice in my view fall just as clearly within the provisions of having somebody to carry on the administration of justice as the others do, although I never thought of it before, I should have no question, as a first impression, of the power of the President.

Mr. HILL, of Georgia. The question to which I wish to call the attention of the Senator (and he will see where it will lead to) is in the constitutional meaning of the word "vacancy;" is there such a thing as a vacancy on the supreme bench by the death of an incumbent?

Mr. EDMUNDS. I supposed there was, Mr. President. I had the impression that, when the first Congress established a Supreme Court of the United States, which the Constitution required them to establish by law, until the judges were nominated and confirmed and commissioned every one of those offices that had been created by law was vacant. If the offices had not been vacant, I am quite unable to see how the President and the Senate could fill them up.

Mr. HILL, of Georgia. I can see how the President may nominate to the Senate to fill a term. That I can understand; but the point I make is that if a judge of the Supreme Court or a judge of the circuit court or the district court should die during the recess of Congress, is there any instance where the President has appointed a judge to fill that place until the meeting of Congress, and where that judge has taken his seat?

Mr. EDMUNDS. I do not know whether there are or not, but I think there are.

Mr. HILL, of Georgia. I ask for information; I have found no such case.

Mr. EDMUNDS. I am informed by a gentleman whose accuracy about historic knowledge as well as about everything else is well known here, and who sits very near me, that the Senator from Illinois [Mr. DAVIS] was appointed a judge of the Supreme Court by the President during a recess of the Senate. Is that true?

Mr. DAVIS, of Illinois, nodded assent.

Mr. HILL, of Georgia. I understand in point of fact that Senator DAVIS was appointed, but that he did not take his seat until after his confirmation by the Senate.

Mr. EDMUNDS. It may be that he did not take his seat; he need not take his seat; he might never take his seat.

Mr. HILL, of Georgia. The President can designate whom he will nominate. The nomination is not the appointment.

Mr. HOAR. Mr. President—

The VICE-PRESIDENT. Does the Senator from Vermont yield to the Senator from Massachusetts?

Mr. EDMUNDS. Oh yes.

Mr. HOAR. I simply wish to make one suggestion on the precise point of the question put, which also relates to the point about the filling of civil offices when a vacancy exists during a session of the Senate and then continues afterward. The question which arises on the matter suggested by the Senator from Georgia [Mr. HILL] and the matter suggested by the Senator from Vermont [Mr. EDMUNDS] is the same which arises on the question suggested by the Senator from Wisconsin, [Mr. CARPENTER,] and that is, of the controlling effect of other clauses in the Constitution. When the Constitution says that the governor of a State may appoint a Senator until the next meeting of the Legislature, is not that a limit of the entire authority over that vacancy? So when the Constitution says the judge shall hold his office during good behavior, is not that a limit on the power of appointment subject to the future confirmation by the Senate, which would make the judge in that case hold an office only until the Senate should meet? Whether that is a good or a bad argument, that is the clause of the Constitution which presents that point. So answering the Senator from Georgia that the judge would not have the right to take his seat, would not in the least impugn the general proposition. So in regard to the appointment to a vacancy which has occurred before a previous adjournment of the Senate, the President being only to appoint to fill during the recess, does not that imply a limit on the President's power? In all these three cases the ground being that the vacancy did not happen during the time specified, another expression of the Constitution limits the power of the President.

Mr. EDMUNDS. Mr. President, I express my thanks to the Senator from Massachusetts for stating so much better than I could myself, exactly what I was going to say.

Mr. HOAR. I beg your pardon; I thought you had passed from that point.

Mr. EDMUNDS. Oh no. And I need not add anything to what the Senator from Massachusetts has said upon that particular topic.

Now, I wish to call the attention of the Senator from Georgia, although I do not see that it has anything to do with this question at all, to what he has said about judicial offices which are for life when there is good behavior. The Constitution declares that the President "shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for." The very next clause says "The President shall have the power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

Now, then, if there is any force in human language, there is a complete grant of power, that is exhausted in respect of the field that it covers, to the President of the United States to fill every vacancy that happens during a recess of the Senate in every office of the United States. If the President of the United States cannot appoint a judicial officer whose general term happens to be during good be-

havior, because that is such, although the vacancy occurs by death during a recess of the Senate, being confessedly a vacancy that does happen in the very narrowest sense of the term, in the sense of my friend from Georgia, then you are obliged to import into the Constitution a limitation upon the power of the President to find somebody to carry on the administration of justice until the constitutional and permanent appointment can be made. As my friend from Wisconsin suggested privately a few moments ago, all these provisions for temporary appointments are exceptive and temporary, in order to provide always, in every branch of the Government, the means of keeping it alive and carrying it on.

Mr. HILL, of Georgia. The Senator will understand that I am not debating the question; but I see that the whole point turns upon the meaning of the word "vacancy." What is a "vacancy" in the meaning of the Constitution? Now, my attention has been called to the historical fact that in one instance the President did appoint a judge of the Supreme Court in vacation, and he did take his seat.

Mr. EDMUNDS. I have no doubt there are many.

Mr. HILL, of Georgia. An instance of that kind occurring without discussion would not amount to anything. The real question is what is the meaning of the word "vacancy." I call the attention of the Senator to the fact that in relation to filling vacancies in the House of Representatives the language is much broader than it is in regard to the filling of vacancies in the Senate. If he will look at the Constitution he will find that the language is that when vacancies happen, not by death or otherwise, but when they happen at all in the representation in the House—

Mr. EDMUNDS. Now, may I ask my friend from Georgia—

Mr. HILL, of Georgia. In a moment. "When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies." I wish to know of the Senator if he holds that the governor of California could now issue a writ of election and bring on the election of Representatives from California to the Forty-sixth Congress?

Mr. EDMUNDS. I should like to ask my friend from Georgia who says that the language about the House of Representatives is broader because it says "happen" and does not use the words "by resignation or otherwise," how it is possible that any vacancy shall happen unless it be "by resignation or otherwise?"

Mr. HILL, of Georgia. That is precisely my view, that a "vacancy" in the meaning of the Constitution does not "happen" ordinarily, especially in the case of a judge, unless it happens "by death, resignation, or otherwise." Now, the word "otherwise" there, as the Senator well knows, under the legal decisions has a meaning; it has a very definite and well-settled meaning; and that is this: a vacancy that happens otherwise is one that is similar to those which are enumerated. For instance a vacancy may happen by death, resignation, or otherwise. "Otherwise" how? In some similar method upon the incumbent. The vacancy occurs by death upon the incumbent; the vacancy occurs by resignation, the act of the incumbent; and so if it occurs in any other wise; the word means "any vacancy occurring otherwise, i. e., in a similar manner upon the incumbent; that is, if the incumbent shall be expelled; that is, if the incumbent should not take his seat after he has been elected. The word "otherwise" there evidently means a vacancy happening in a similar manner, by casualty, to those specified.

Mr. EDMUNDS. Mr. President, this is the first information I ever had that the word "otherwise" meant "in a similar manner." I thought it meant "in some other manner." That is the impression that I have always had; but I see I am mistaken—

Mr. HILL, of Georgia. The Senator will find that is the definition given to it by the courts in many cases.

Mr. EDMUNDS. I do not think I shall find that in the view we are now speaking of, with great respect to my friend from Georgia.

Mr. HILL, of Georgia. I take great pleasure, then, in informing the Senator of something he had not known in the decisions of the courts. I thought he knew of everything on that subject.

Mr. EDMUNDS. I think I am not altogether ignorant of the decisions to which my friend refers; but we shall differ in respect to their application to this question.

Now, Mr. President, to come back again to the point, we will leave the question of judicial officers which has nothing to do with this that I can see, and we will come to what the Senator says about the House of Representatives, and about the difference in the Constitution not saying "by resignation or otherwise," in regard to vacancies there. Let us suppose that a statute of a State against malicious homicide, which is murder, should say "that if any person shall maliciously and with malice aforethought and by a gun kill another person," or it should say, "by a gun or otherwise kill another person he shall be guilty of murder," and it turned out that the other person in the case supposed was maliciously strangled, as people sometimes are by robbers, by being grasped by the throat in the strong grip of some stalwart thief who gets into your house at night and strangles you to death. The man is indicted for murder. Thereupon the counsel for the defense rises up and says "this statute says that if any person with malice aforethought shall kill anybody with a gun or otherwise he shall be guilty of murder. That is the statute; and that means the 'otherwise' is 'in some similar manner,' that is by the use of gun-powder or a pistol instead of a gun."

Mr. HILL, of Georgia. The word "otherwise" in that connection would mean "otherwise in a malicious manner" to make the offense murder.

Mr. EDMUNDS. Exactly, and that is what it means here, whenever a vacancy occurs by resignation or in any other manner, so that you have the vacancy, just as in the case of a homicide you have the malicious killing.

Mr. HILL, of Georgia. I repeat with all deference, not meaning to interrupt the Senator, that the word "otherwise" there means this: the clause applies where a vacancy shall happen by death, resignation, or otherwise; that is, by the happening of any other event to the incumbent by which the incumbent does not remain in the place to which he was elected.

Mr. EDMUNDS. The Constitution is speaking of the vacant office, and not of the incumbent at all except in the first phrase. There is where the Senator from Georgia and I appear to differ. The Constitution is looking to have each State represented in this body all the time and by some method that the Constitution provides and looks to do it; and therefore when it uses the word "otherwise," it uses a comprehensive term, so that in whatever way a State ceases to have opportunity to express its full voice here in this council of States, it shall be filled up temporarily by the governor until the Legislature, the chief and the sovereign power in the State next meeting, can have an opportunity to fill it. Then if they fail in their constitutional duty, the Constitution as it was made has not thought fit to give the governor any other power. That is the state of the case.

But now to come back to all that I intended to say it was to call to the attention of Senators for their consideration what I think has been the error into which many people have fallen—the talking about terms in connection with this question. I submit to the consideration of Senators that the term of the particular person who fills the office has nothing to do with the continuity of the office itself, and that the Constitution is speaking of the time of the office, and cares nothing about terms; that whenever that office comes to be vacant so that the State is deprived of its voice, then if there be not a State Legislature present and in session to fill it the governor may fill it until the next session of the Legislature has an opportunity to do it, and it does not give the governor power to fill it any longer. It seems to me that if Senators will think of that distinction and thereby disembarass themselves of the idea of personal terms as having anything to do with this question, it will go a great way to solve it.

The VICE-PRESIDENT. According to the understanding of yesterday the further consideration of this matter goes over.

Mr. SAULSBURY. Yes, sir; until Monday next.

Mr. HOAR. Before the matter goes over, I understand from gentlemen on the floor that in the case of Chief-Justice Rutledge, who was rejected by the Senate in John Adams's administration, he actually took his seat and held court. I mention this in answer to the question of the Senator from Georgia.

Mr. EDMUNDS. I have no doubt that if the precedents were examined it would be found that in the whole history of the Government judicial offices have been frequently, and constantly when a vacancy occurred during the recess of the Senate, filled by the President. Of course it would be very rare in the small body of men composing the Supreme Court; but if you take the whole judicial affairs of the country, I have no doubt that many instances will be found although I do not remember any.

Mr. SAULSBURY. The election question goes over until Monday, I believe.

The VICE-PRESIDENT. Until Monday. The regular order is the call of the Calendar of general orders. The Secretary will report the first bill on the Calendar.

ADJOURNMENT TO MONDAY.

Mr. BAYARD. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

The motion was agreed to.

Mr. CARPENTER. I move that the Senate do now adjourn.

Mr. FERRY. Will not the Senator move an executive session?

Mr. CARPENTER. I withdraw the motion.

DEPARTMENT OF AGRICULTURE.

Mr. PADDOCK. I submit the following resolution for reference to the Committee on Agriculture:

Resolved by the Senate, (the House of Representatives concurring,) That a commission, to be composed of three Senators and four members of the House of Representatives, is hereby authorized to be appointed to devise a plan for the reorganization of the Department of Agriculture, with the view of extending its jurisdiction and increasing its efficiency. Such commission shall have authority to send for persons and papers, to sit during the recess, and to report by bill or otherwise, at the next regular session of the present Congress.

Mr. ANTHONY. I suggest to my friend before his resolution is referred that he modify it so as to make the number of Senators and Representatives equal. A commission in which a majority is from one House places the other House entirely in the power of the majority.

Mr. PADDOCK. I accept the suggestion of the Senator from Rhode Island, and make the number three Senators and three Representatives.

The VICE-PRESIDENT. The resolution will be so modified and referred to the Committee on Agriculture.

LEGISLATION ON APPROPRIATION BILLS.

Mr. HEREFORD. I desire to state that on Monday after the morning hour I shall move to take from the table the resolution submitted by the Senator from Massachusetts [Mr. HOAR] on the 21st of March, for the purpose of expressing some views on that subject.

EXECUTIVE SESSION.

Mr. DAVIS, of Illinois. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After two hours and eighteen minutes spent in executive session the doors were reopened, and (at three o'clock and forty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, April 3, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ARMY APPROPRIATION BILL.

Mr. SPARKS. I now move that the House resolve itself into Committee of the Whole to proceed with the consideration of the Army appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the State of the Union, (Mr. SPRINGER in the chair,) and resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The gentleman from Kentucky [Mr. KNOTT] is entitled to the floor.

Mr. KNOTT. Mr. Chairman, in my judgment the question under discussion involves one of the most important principles that ever challenged the attention of the American Congress; a principle paramount to every conceivable consideration and mere party expedient; a principle in which every freeman of this country, whether republican or democrat, is profoundly and vitally interested; a principle which lies at the foundation of all republican institutions, and upon which their purity as well as their perpetuity depend; a principle recognized by our ancestors in their very earliest experiments in representative governments, and which has been cherished by their descendants with the most jealous vigilance for over six hundred years—in a word, the great fundamental principle of republican liberty that the ballot-box should be protected from the slightest approach of military power, and that the voter should be absolutely free in exercising at the polls the high prerogative of a sovereign citizen.

In order that gentlemen may understand the estimation in which this grand pivotal principle of free government has always been held by the great people from whom we derived our language, our laws, our traditions of liberty, and our ideas of constitutional limitations, I beg leave to call their attention to a statute enacted by the British Parliament over one hundred and fifty years ago, and which has remained in force from that time to the present hour. I allude to the statute passed in the eighth year of the reign of George II, the year 1735. It is an act entitled—

Anno octavo Georgii II, c. 30. [1735.]

CAP. XXX.

An act for regulating the quartering of soldiers during the time of the elections of members to serve in Parliament.

Whereas by the ancient common law of this land all elections ought to be free; and whereas by an act passed in the third year of the reign of King Edward the First, of famous memory, it is commanded, upon great forfeiture, that no man by force of arms, nor by malice, or menacing, shall disturb any to make free election; and forasmuch as the freedom of elections of members to serve in Parliament is of the utmost consequence to the preservation of the rights and liberties of this kingdom; and whereas it hath been the usage and practice to cause any regiment, troop, or company, or any number of soldiers which hath been quartered in any city, borough, town, or place where any election of members to serve in Parliament hath been appointed to be made to remove and continue out of the same during the time of such election, except in such particular cases as are hereinafter specified: To the end, therefore, that the said usage and practice may be settled and established for the future, be it enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal and commons in Parliament assembled, and by the authority of the same, that when and as often as any election of any peer or peers to represent the peers of Scotland in Parliament, or of any member or members to serve in Parliament, shall be appointed to be made, the secretary at war for the time being, or in case there shall be no secretary at war, then such person who shall officiate in the place of the secretary at war, shall, and is hereby required, at some convenient time before the day appointed for such election, to issue and send forth proper orders in writing for the removal of every such regiment, troop, or company, or other number of soldiers as shall be quartered or billeted in any such city, borough, town, or place where such election shall be appointed to be made, out of every such city, borough, town, or place, one day at the least before the day appointed for such election, to the distance of two or more miles from such city, borough, town, or place, and not to make any nearer approach to such city, borough, town, or place, as aforesaid, until one day at the least after the poll to be taken at such election shall be ended and the poll-books closed.

II. And be it further enacted by the authority aforesaid, That in case the secretary at war for the time being, or such person who shall officiate in the place of the

secretary at war, shall neglect or omit to issue or send forth such orders as aforesaid, according to the true intent and meaning of this act, and shall be thereof lawfully convicted upon any indictment to be preferred at the next assizes, or sessions of oyer and terminer, to be held for the county where such offense shall be committed, or on an information to be exhibited in the court of King's Bench, within six months after such offense committed, such secretary at war, or person who shall officiate in the place of the secretary at war, shall for such offense be discharged from their said respective offices, and shall from thenceforth be utterly disabled and made incapable to hold any office or employment, civil or military, in his majesty's service.

III. *Provided, nevertheless*, That nothing in this act contained shall extend, or be construed to extend, to the city and liberty of Westminster, or the borough of Southwark, for and in respect of the guards of his majesty, his heirs or successors, nor to any city, borough, town, or place, where his majesty, his heirs or successors, or any of his royal family, shall happen to be or reside at the time of any such election as aforesaid, for or in respect of such number of troops or soldiers only, as shall be attendant as guards to his majesty, his heirs or successors, or to such other person of the royal family as is aforesaid; nor to any castle, fort, or fortified place where any garrison is usually kept, for or in respect of such number of troops or soldiers only whereof such garrison is composed.

IV. *Provided likewise*, That nothing in this act contained shall extend, or be construed to extend, to any officer or soldier who shall have a right to vote at any such election, as aforesaid, but that every such officer and soldier may freely, and without interruption, attend and give his vote at such election; anything hereinbefore contained to the contrary thereof notwithstanding.

V. *Provided always*, That the secretary at war, or in case there shall be no secretary at war, then such person who shall officiate in the place of the secretary at war, shall not be liable to any forfeiture or incapacity for not sending such order, as aforesaid, upon any election to be made of a member to serve in Parliament on vacancy of any seat there, unless notice of the making out any new writ for such election shall be given to him by the clerk of the crown in chancery or other officer making out any new writ for such election, which notice he is hereby directed and required to give with all convenient speed after making out the said writ.

Alluding to this statute, Mr. Blackstone, in the first book of his Commentaries, a work doubtless familiar to every gentleman in this House, as it is to every legal tyro throughout the country, says:

And as it is essential to the very being of Parliament that elections should be absolutely free, therefore all undue influences upon the electors are illegal and strongly prohibited. Mr. Locke ranks it among those breaches of trust in the executive magistrate which according to his notion amount to a dissolution of the government, if he employs the force, treasure, and offices of society to corrupt the representatives or openly to pre-engage the electors and prescribe what manner of persons shall be chosen.

"For thus to regulate the candidates of electors and new-model the ways of elections, what is it," says he "but to cut up the Government by the roots and poison every fountain of public security."

As soon, therefore, as the time and place of election, either in counties or boroughs, are fixed, all soldiers quartered in the place are to remove one day before the election to the distance of two miles or more, and not to return until one day after the poll is ended.

Such, sir, is the principle involved in the proposition under consideration, a principle which no man who is worthy to represent a generous and confiding constituency upon this floor—I care not from what section he may come or what his party affiliations or political predilections may be—can afford to treat with indifference, much less to sacrifice to any purpose of personal aggrandizement or party supremacy; for if gentlemen will reflect for a single moment upon the proneness of all men to abuse the power with which they may be intrusted by their fellow beings, if they will reflect upon the rapid and remarkable fluctuations which have heretofore taken place in the distribution of population in this country, and the frequent and sudden mutations to which representative governments like ours are constantly liable, they must be convinced of the possibility at least that the time may come when they will find themselves under the necessity of appealing to the very doctrine they may now affect to despise.

I had hoped, therefore, that in the discussion of this question neither party passion nor sectional prejudice would be invoked; that it would be discussed on the other side of the Chamber as upon this with a calmness, dignity, and judicial candor commensurate with its gravity and importance. In that, however, I am sorry to say I have been deeply and painfully disappointed, especially in the remarks submitted by my distinguished friend from Maine, [Mr. FRYE.] I do not know, sir, that in the whole course of my life I have ever listened to a speech with feelings of profounder regret, not because it injured either myself or the party to which I belong in the remotest possible degree, but because I considered it decidedly injurious to himself. I regretted it because of my high appreciation of his ability as a lawyer and my extraordinary attachment to him as a friend, a sentiment which I sincerely trust is fully reciprocated by himself, and I hope, therefore, he will pardon me for saying, not in anger but in sorrow, that while it might have been appropriate, or at least pardonable, in some petty politician of his party at the cross-roads, or around the stove of the village bar-room, it was unjust to his own genial and generous nature as a man to indulge in a line of remark which could have no other effect, whatever might have been its purpose, than to wound the feelings of gentlemen who I am certain have hitherto entertained for him nothing but the kindest feelings of friendship; it was unjust to his reputation as a statesman to assume the idle vaporing of an obscure country editor as a reflex of the principles and motives of a great political party, or a just expression of the sentiments of the intelligent portion of the community in which he may reside; it was unjust to his high standing as a lawyer and a legislator to abandon the discussion of a proposition involving grave questions of constitutional law and important principles of public policy and devote himself entirely to vehement declamation upon matters having no more relation to the question under consideration than the ancient feud between the pigmies and the cranes; and it was

unjust to his character as a patriot to grope among the catacombs of the past for matters which had long since been buried out of sight and which could have no possible relevancy to the issue before us, or serve no other purpose in the present debate than to rekindle the fires of sectional strife which I hoped had, in the good providence of the Divine Being he so solemnly invoked, been allayed, and allayed forever.

It was for these reasons, sir, that I so profoundly regretted the gentleman's speech, to which I shall attempt no further answer. It would be as much to the purpose of this discussion, indeed, to reply to the roar of the surf that breaks upon his own rock-bound coast, or the howling of the storms that eddy around his hospitable home. I do not intend myself, and I trust that my friends on this side of the House do not intend to be diverted from the consideration of the question before us by the discussion of any collateral issue whatever, but mean to press straight forward to the accomplishment of the high purpose upon which we have resolved—

Like to the Pontic sea,
Whose icy current and compulsive course
Ne'er feels retiring ebb, but keeps due on
To the Propontic, and the Hellespont.

What is that purpose, sir? To strike from two sections of the Revised Statutes a clause comprised in eight simple words, which imply an unlimited authority in the Government of the United States to interfere with the enforcement of the local laws of the several States for the preservation of the peace at the polls whether called upon for that purpose by the proper State authorities as prescribed in the Constitution or not; a power, as we contend, totally unauthorized by the organic law of the Union, except under certain plainly expressed conditions, but which has been repeatedly exercised, and is constantly liable to be employed in corrupting the ballot-box, destroying the freedom of elections, and thereby defeating the popular will. It is simply to strike from sections 2002 and 5528 of the Statutes the words "or to keep the peace at the polls," so that if any officer of the Army or Navy, or other person in the civil, military, or naval service of the United States shall bring, keep, or have under his control any troops or armed men at any place where any general or special election is held in any State of this Union for any purpose whatever except to repel the armed enemies of the United States, he shall be liable to the penalties therein prescribed.

I was astounded, sir, to hear the gentleman from Pennsylvania [Mr. WHITE] repeat on yesterday a statement made in a somewhat different form perhaps, but equally to my amazement, by the distinguished gentleman from Ohio, [Mr. GARFIELD,] on Saturday last, to the effect that the author of this obnoxious clause, in our estimation so pregnant with danger to the liberties of the American people and the integrity of their institutions, was a Senator from Kentucky, now deceased, (Mr. Powell,) and it was supported by the unanimous vote of the democratic members of both Houses of the Thirty-seventh Congress, both statements evidently intended to convey the impression distinctly and emphatically that it was a democratic measure, passed against the will of a majority of the republicans then in the Senate and House of Representatives. I will not say that the gentlemen were disingenuous or uncandid in this. I would not insinuate that either of them could be guilty of a deliberate attempt to make a false impression either upon the House or the country with regard to this matter, I rather choose to suppose that they had overlooked or forgotten the facts, notwithstanding each of them had the record before him when making his statement and could have seen that the impression sought to be made was diametrically opposite to the truth, as I shall presently show to the exclusion of all possible doubt. Before proceeding to do so, however, it may not be impertinent to this discussion for me to call the attention of the House to the facts which led to the enactment of the law in which the clause now proposed to be repealed is found.

In the winter or early spring of 1863 a democratic convention, comprising many of the most distinguished and patriotic citizens of the Commonwealth, assembled at Frankfort, Kentucky, for the purpose of nominating candidates for the various State offices to be filled at the ensuing August election, as had been customary from the time that method of party organization was first resorted to in our country. Before that convention had nominated a single candidate, however; before it had adopted a solitary resolution or promulgated a single principle of its political faith, it was dispersed at the point of the bayonet at the command of a military officer of the United States by the name of Gilbert, I believe, who, having by that single act of brutal outrage upon the constitutional rights and liberties of American freemen achieved for himself an immortality of infamy, has, fortunately for the good of society and the reputation of the human family, sunk into the obscurity for which his Creator designed him, I trust never to be heard of again.

The delegates to that convention, having been thus forcibly deprived by the armed soldiery of the United States of the natural and inalienable right guaranteed to them by the Constitution of their country to peaceably assemble for a lawful purpose, and prevented from presenting a ticket for the free suffrages of the people of their State, thirty-one gentlemen, among them Hon. William F. Bullock, of Louisville; Hon. Joshua F. Bullett, a judge of the court of appeals; Hon. Nat Wolf, but recently before a leading member of the State senate; Hon. John H. Harney, the editor of the leading democratic

newspaper in the Commonwealth; Dr. R. C. Palmer, at present an honored citizen of my own town, and others equally distinguished for their abilities and their patriotism, addressed a communication to Hon. Charles A. Wickliffe, on the 13th of June following, requesting him to become a candidate for the office of governor.

Every one of these gentlemen, sir, had been from the very beginning of the unfortunate strife between the two sections of our country among the very ablest and outspoken advocates and defenders of the cause of the Union. But lest there should be a doubt in the mind of any gentleman of their sentiments and opinions in that particular, I will read them as they are truly and pointedly expressed in a single brief paragraph in the communication to which I have referred. They say:

We hold this rebellion utterly unjustifiable in its inception, and the dissolution of the Union the greatest of calamities. We would see all just and constitutional means adopted for the suppression of the one and the restoration of the other.

Of Governor Wickliffe, sir, it is perhaps unnecessary that I should say a single word in a presence like this. His name is historic. It is inscribed in imperishable characters alike upon the annals of his State and his country. During a long life of singular usefulness and honor, devoted almost entirely to the public service, many years of which he spent as a distinguished member of this House, occupying the seat I now have the honor to fill, he never occupied a position from that of representative in the Legislature of his native Commonwealth to that of Cabinet minister that he did not most signally adorn; and I trust it will not be indelicate in me to add that an abler statesman, a purer patriot, a truer, stancher friend to the Union of these States, or a nobler man, never breathed the vital air of heaven.

Yielding to the call which had thus been made upon him he announced himself as a candidate for governor of Kentucky, with other gentlemen, equally loyal with himself, filling the subordinate positions on the ticket; but it seems to have been predetermined that neither they nor any other candidate claiming to be a democrat, however devoted to the Union he might be, should be permitted to receive the untrammelled suffrages of the people of that State for any office or position of public trust whatever; and as an evidence of that predetermination on the part of the military authorities of the United States I will first read an extract from an order issued by General A. E. BURNSIDE, then in command of the military department embracing the State of Kentucky, dated July 31, 1863. It is as follows:

As it is not the intention of the commanding general to interfere with the proper expression of public opinion, all discretion in the conduct of the election will be, as usual, in the hands of the legally appointed judges at the polls, who will be held strictly responsible that no disloyal person will be allowed to vote, and to this end the military power is ordered to give them its utmost support.

Sir, I will not pause here to comment upon this order in the terms it so richly deserves. I will leave it to the intelligent, dispassionate judgment of a liberty-loving people, irrespective of party, to determine the freedom of a "discretion" which was to be held "strictly responsible" to a military commission perhaps, if not exercised according to the arbitrary and licentious will of the "general commanding." I will not even characterize it as the most atrocious outrage ever perpetrated upon the freedom of election since the organization of republican governments among men, for I have before me the orders of other eminent military chieftains, high in command of the Army of our country, which prevented even "the legally appointed judges" from conducting the election and recording the votes of qualified electors according to the laws of my State; nay, more, which went so far as to prevent the proper authorities from appointing such judges of the election as the statutes of the Commonwealth required, and permitted no one to present himself as a candidate for any office whatever unless his political views conformed to those of the dominant party or the officer in command. On the 15th of July, Major-General Hurlbut, in command of the Sixteenth Army Corps, issued special orders, which was enforced throughout the first congressional district of Kentucky, at present represented by my friend [Mr. TURNER,] and enforced, too, in a manner that should thrill the bosom of every reflecting patriot with unutterable horror, as I will presently show:

HEADQUARTERS SIXTEENTH ARMY CORPS,
Memphis, Tennessee, July, 1863.

In so much of the State of Kentucky as is within the district of Columbus it is ordered:

1. That no person be permitted to be a candidate for office who is not avowedly and unconditionally for the Union and the suppression of the rebellion.
2. That no person shall exercise the privilege of an elector and vote at said elections who is not avowedly and unconditionally for the Union and the suppression of the rebellion.
3. The military authorities in said district of Columbus shall see to it that this order be carried out. Judges of election will be governed by the principles herein set forth, and will demand evidence upon oaths in such cases as may be in doubt, and allow no person to exercise the franchise of voting who does not take the oath required.

By order of Major-General S. A. Hurlbut.

HENRY DINSMORE,
Assistant Adjutant-General.

In order to place the meaning of the foregoing special order beyond all possible doubt, Brigadier-General Asboth, who had taken lessons in free government from the despotisms of Europe, issued an order dated at his headquarters, Columbus, Kentucky, July 29, 1863, which I will read:

That no further doubt may exist as to the intents and meaning of special order No. 159, dated headquarters Sixteenth Army Corps, July 14, 1863, it is ordered that

no person shall be permitted to be voted for or be a candidate for office who has been or is now under arrest or bonds by proper authority for uttering disloyal language or sentiments.

County judges within this district are hereby ordered to appoint as judges and clerks of the ensuing August elections only such persons as are avowedly and unconditionally for the Union and the suppression of the rebellion, and are further ordered to revoke and recall any appointment of judges and clerks already made who are not such loyal persons.

Judges and clerks of elections are hereby ordered not to place the name of any person upon the poll-books to be voted for at said election who is not avowedly and unconditionally for the Union and the suppression of the rebellion, or who may be opposed to furnishing men and money for the suppression of the rebellion.

Let it not be supposed, sir, that this order, atrocious as it is, stands without a parallel in the annals of that melancholy period in our history. I have before me similar orders issued by a certain Lieutenant-Colonel Johnson, whose name became a synonym of infamy in the estimation of respectable people of all parties in Kentucky long before the conclusion of the war; and also one issued by General Shackelford, who was in command of the United States forces at Russellville.

In pursuance of these orders, sir, county judges were required to violate the statutes of Kentucky, which required the officers of elections to be selected equally from the opposing political parties in the State, and troops with fixed bayonets were paraded at nearly every voting place throughout the Commonwealth, in order to see that no one should be voted for as a candidate, or exercise the elective franchise unless his political sentiments should fit the Procrustean bed laid down by the military authorities of the United States.

Mr. TUCKER. When was that?

Mr. KNOTT. In 1863, sir; after Morgan's cavalry had been pursued into Ohio and captured. When Kentucky had over fifty thousand volunteers in the Union Army, and when, I sincerely believe, there were not a hundred armed confederates within the entire limits of the State. I should remark also, sir, that these orders were issued and enforced without any demand by the governor or Legislature of the State upon the Federal authorities for assistance to repel invasion, suppress domestic violence, "keep the peace at the polls," or for any other purpose whatever.

A few instances will suffice to show, sir, how these orders were enforced, and the results of armed interference at the polls. In many places in various portions of the State the names of Governor Wickliffe and other democratic candidates upon the State and local tickets were stricken from the poll-books by order of the military officer in command of the troops present at the polls to keep the peace and give the officers of the election "their utmost support" in stifling the voice of the elector. Thousands were turned away from the ballot-box on the pretext of disloyalty, while thousands of others were kept away from it entirely under the terrors of military arrest and imprisonment, and the election officers compelled, under a like menace, simply to register the edict of a military despotism which they were powerless to resist and dare not disobey.

In the first congressional district, now represented by my friend and colleague, [Mr. TURNER,] Hon. Lawrence S. Trimble was the democratic candidate for a seat on this floor in opposition to one Lucien Anderson, who claimed to be "an unconditional Union man." Mr. Trimble had formerly served with distinction upon the circuit bench of the State. He was among the earliest, ablest, and most consistent advocates of the Union cause in the Commonwealth. He has been thrice elected to represent that district in this branch of the Federal Congress, and in the Fortieth Congress his loyalty was vindicated upon a square issue, fully investigated by a House overwhelmingly republican in politics, although at all times, before and since, a sterling, unflinching, unwavering democrat. Yet, sir, he was arrested by military authority and carried to a prison beyond the limits of his district, where he was kept until after the election, when he was released without trial and without accusation. True, sir, he was offered his liberty on condition that he would decline his candidacy and withdraw from the canvass; but I thank God he spurned the insulting proposal as a genuine Kentuckian will always spurn such indignity and outrage.

Mr. Martin, who had represented the counties of Lyon and Livingston in the State Legislature, who had always been a "Union man" though a democrat of the strictest sect, and who had periled his life for the cause of the Government in piloting the first Federal gunboat that ever ascended the Cumberland River, was also arrested and carried off to a military prison where he was detained until after the election for no other reason than that he was a democratic candidate for re-election to the seat he had already occupied in the lower house of the General Assembly.

Colonel John H. McHenry, who commanded a regiment in the Federal Army, who was among the first, and the bravest who left the endearments of home, and rushed to the red field of war in defense of his country's flag, and who bore himself on many a stricken field as a hero worthy of the blood that coursed through his veins, was a candidate for Congress in the second district now so ably represented by my colleague, [Mr. McKENZIE.] Yet, as was the case with Governor Wickliffe, Judge Trimble, Mr. Martin, and other democratic candidates in various parts of the State, his name was in many places stricken from the poll-books, in others "Union men" were prohibited at the point of the bayonet from casting their suffrages for him, while hundreds of his democratic friends dared not to attempt the exercise of the constitutional franchise in his behalf, for

fear of the menacing discipline of the guard-house or the military prison. And all, sir, because he was a democrat, and a defender of the Constitution of his country.

In order to show, sir, from record evidence how the election was conducted in my own district under this régime, I beg leave to call attention to the following documents. The first is a certificate signed by Moses D. Leeson, captain of Company B, Fifth Indiana Cavalry, who commanded a company at the polls in a precinct in Nelson County. It reads:

I, Moses D. Leeson, captain commanding Company B, Fifth Indiana Cavalry, hereby certify that under the orders and instructions of Lieutenant-Colonel Thomas H. Butler, commanding Fifth Indiana Cavalry, I ordered the polls to be opened by the regularly appointed judges, sheriff, and clerk, namely, W. R. Livers, T. C. Warren, Thomas Coron, and R. E. Harrelle, and permitted no other candidates' names to appear on the poll-books but the following: For governor, Thomas E. Bramlette; for lieutenant-governor, R. T. Jacob; for attorney-general, John M. Harlan; for State treasurer, James Ganard; for auditor, W. T. Samuels; for register of land office, James A. Davidson; for superintendent of public instruction, Stevenson; for Congress, Aaron Harding; for Legislature, Dr. W. Elliott; for county attorney, G. W. Hite; for county clerk, W. T. Spalding and William M. Powell.

MOSES D. LEESON,
Captain commanding Company B, Fifth Indiana Cavalry.

And here, sir, are two others showing what was done in the county of Breckinridge:

We the undersigned do hereby certify, as officers of precinct No. 2 at Cloverport, Kentucky, that, after opening the polls, Captain Hernbrook, by authority from General Shackelford, ordered us to strike off the entire Wickliffe ticket, and also Milton Board's name from the poll-book; which was accordingly done in obedience to said order.

WILLIAM B. JONES,
WILLIAM S. ALLEN,
Judges.

Attest:

J. C. HEST, Clerk,
J. R. ALLEN, Sheriff.

Again, sir, Sergeant Brown tells the story for the Forks of Rough, in the same county, as follows:

FORKS OF ROUGH, August 3, 1863.

I do certify that at Rough Creek Spring precinct, district No. 4, there was a poll open for C. A. Wickliffe and others, forming a democratic ticket, and for State officers; that I suppressed the same by order of General Shackelford between seven and eight o'clock a. m.

WILLIAM BROWN,
Sergeant in Command.

It is needless to add, Mr. Chairman, that under such auspices as these the elections in Kentucky in 1863 amounted to nothing more than the mere registration of the edicts of military authority, nor is it necessary that I should multiply evidences such as I have already adduced in order to show the danger and impropriety of permitting the presence or interference of the armed forces of the United States at the polls under the pretext of keeping the peace, or for any other purpose whatever. If what I have already shown is not sufficient to thrill the bosom of every thinking, patriotic American citizen with indignation and horror, I confess I am at a loss to conceive what possible condition of circumstances could excite their solicitude for the safety of their liberties or the perpetuity of their republican institutions.

But fortunately, sir, for the State, fortunately for the country, fortunately for the cause of human freedom everywhere, Kentucky was represented in the other end of this Capitol during the dark days of which I have been speaking by her honored and illustrious son, the lamented Lazarus W. Powell. When that sterling patriot, that sagacious statesman, that undaunted champion of popular liberty, saw the atrocious outrages against free elections which were perpetrated in his own State under the auspices of the military power of the Federal Government, he determined at once to prevent, if possible, the recurrence of such scenes by congressional enactment under the sanction of appropriate penalties. Accordingly, at the very earliest opportunity that presented itself after the opening of the ensuing session of Congress, he introduced a bill for that purpose. And this brings me back, sir, to the statements of the gentleman from Ohio [Mr. GARFIELD] and the gentleman from Pennsylvania, which I will ask the House to examine side by side with the record, which was open before them when they addressed the House.

If gentlemen will turn to page 101 of volume 50 of the Congressional Globe they will find the bill, No. 37, word for word as it was introduced by Mr. Powell, but so far from finding in that bill the clause which it is now proposed to repeal they will discover that it does not contain one single word or syllable with reference to keeping the peace at the polls; not a syllable, sir. It is true that the bill was, against the earnest protest of Mr. Powell, referred to the Committee on Military Affairs, and it is also true that the Committee on Military Affairs returned it to the Senate with an adverse report which the impartial patriots of coming generations will perhaps regard as one of the darkest stains upon the annals of the American Congress. But, sir, undaunted by a single reverse, Mr. Powell, notwithstanding the adverse report of the committee, continued day after day, and week after week, earnestly and persistently urging the consideration of the bill until finally the Senate, at the request of Senator Trumbull, consented to take it up, whereupon Mr. Powell proposed to amend it by adding the words, "unless it shall be necessary to repel the armed enemies of the United States." Still not a syllable about keeping the peace.

But now, sir, I will read directly from the record, on page 3159, volume 53, Congressional Globe:

The PRESIDENT *pro tempore*. The question is on concurring in the amendment inserting after the word "America," in line 9 of the first section, the words "unless it shall be necessary to repel the armed enemies of the United States."

Mr. POMEROY. I wish to amend that amendment by adding to it "or to keep the peace at the polls."

Mr. POWELL. I object to that. It would destroy the effect of the bill. The State authorities can keep the peace at the polls.

Mr. SAULSBURY. That is the very pretext on which the outrages were committed in my State, and it is the very pretext that will be put forward again.

Does this look like there is any ground for an insinuation that Senator Powell was the author or approved in the slightest degree of the obnoxious clause which we now seek to strike from the statute-books? But again, sir, on the next page we find that on Mr. Pomeroy's amendment proposing to add the words "or to keep the peace at the polls" the yeas and nays were called, and Mr. Powell and every other democratic Senator present voted against it. The record says:

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas [Mr. Pomeroy] to the amendment made as in Committee of the Whole.

Mr. LANE, of Kansas, called for the yeas and nays, which were ordered; and being taken, resulted—yeas 16, nays 15; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Foot, Grimes, Harlan, Harris, Howard, Lane of Kansas, Morgan, Morrill, Pomeroy, Ten Eyck, Trumbull, and Wade—16.

NAYS—Messrs. Buckalew, Carlile, Davis, Foster, Hale, Hendricks, Hicks, Johnson, McDougall, Powell, Richardson, Riddle, Saulsbury, Willey, and Wilson—15.

So the amendment prevailed, every democratic Senator voting against it; and the question recurring upon the passage of the bill as amended, Mr. McDougall, a democratic Senator, moved to postpone the bill indefinitely; whereupon Mr. Powell said:

I hope the Senator will withdraw that motion.

Mr. McDOUGALL. Very well; if the Senator wishes to press the bill in its present shape, I withdraw the motion.

The yeas and noes were then taken on the passage of the bill as amended, and every democratic Senator voted in the affirmative. They voted for it, as I presume I would have done had I been in their place, as a step at least in the direction of security to human rights and human liberty.

Mr. WHITE. Will the gentleman allow me to remind him? Did not Mr. Powell and every other democratic Senator vote at that time for Mr. Powell's amendment thus amended by the proposition of the Senator from Kansas?

Mr. KNOTT. Whether they did or not I do not know. The yeas and nays were not called upon that question.

Mr. WHITE. Does not the record show it was unanimously supported by all the Senators?

Mr. KNOTT. The record shows no such thing.

Mr. WHITE. Does not the parliamentary presumption arise—

Mr. KNOTT. Oh, the gentleman may presume whatever he pleases.

Mr. WHITE. Does not the parliamentary presumption arise that when the yeas and nays are not called on an amendment which is adopted every Senator votes for it?

Mr. KNOTT. The gentleman can indulge whatever presumption he pleases and I can indulge mine.

Mr. WHITE. I am not indulging any presumptions. I want legislative facts.

Mr. KNOTT. The gentleman asserted in his speech in emphatic terms that Mr. Powell and other democratic Senators voted for this amendment which incorporated these words into the statutes. I have shown by the record that they did nothing of the kind.

Mr. WHITE. Will the gentleman allow me to explain?

Mr. KNOTT. I do not desire to yield further to this interruption.

Mr. WHITE. I do not want to be misrepresented. The gentleman's statement of what I said is not correct. I did not say that. I said that Mr. Powell voted for the amendment as amended.

Mr. KNOTT. How do you know that?

Mr. WHITE. Because the record says that it was unanimously passed by the Senate.

Mr. KNOTT. I say the record does not show how the Senators voted.

Mr. WHITE. It shows that there was not a yeas-and-nays vote, and therefore there were no noes against it.

Mr. KNOTT. That is a quibble.

Mr. WHITE. It is not a quibble.

Mr. KNOTT. As I have said, the gentleman may indulge whatever presumption he pleases, and I can indulge mine.

Now, sir, when the bill came over to the House it was referred to the Committee on the Judiciary, from which it was reported back by the chairman, Mr. Wilson, of Iowa, and passed under the operation of the previous question, so that no democratic member had an opportunity to amend it even had he desired to do so. They all voted for it, actuated, I presume, by the same motive I ascribed to the democrats who supported it, the desire to accomplish something at least in favor of free elections and the non-interference of the military at the polls. There, sir, is the whole history of the passage of the law and the manner in which the objectionable words came to be inserted in it, and I leave the House and the country to determine the value of any insinuation or statement that their insertion was ever, under any circumstances, a democratic measure, or favored by any democrat in either branch of the Thirty-seventh Congress.

Sir, Kentucky is justly proud of her Clay and her Crittenden, her Wickliffes, her Hardins, her Breckinridges, her Marshalls, and

others of her distinguished sons, whose fame is a part of the history and the heritage of our common country; but in that long line of illustrious names which constitute the brightest jewels in her diadem of glory none sheds more luster upon her maternal brow than that of Lazarus W. Powell, and if every other act of his long and useful career could be erased forever from the memory of his grateful and admiring countrymen, the gallant, persistent, patriotic fight he made in the other end of this Capitol for the protection of the ballot-box from military interference would alone secure for him in the affections of the lovers of human liberty everywhere a memorial as enduring as the everlasting hills. He is dead and gone, sir. "After life's fitful fever he sleeps well."

But little he'll reck if they let him sleep on

In the grave where his people have laid him.

But when the gentleman from Pennsylvania [Mr. WHITE] and others of his party "come to dump their little dirt-carts" upon his moldering ashes, I ask them to at least remember that the only accusation his most malignant foe could bring against him, and the one which they would now insinuate, was spurned and repudiated by an overwhelming majority in a republican Senate, and that, too, when the "still small voice" of justice was almost stifled by the partisan passion and prejudice which ruled the hour.

But, sir, to return to the question. It is now proposed to strike this dangerous and objectionable clause from the law upon which it was ingrafted against the vote and the protest of Senator Powell and his democratic associates in the Thirty-seventh Congress. And why, sir? First, because, as I said awhile ago, it is in violation of the Constitution and purports to authorize the use of the United States for purposes and under circumstances not contemplated in that instrument.

It is true, sir, that the argument upon this point has been gone into somewhat elaborately, yet there are, in my judgment, some reasons which seem to be conclusive of the question, but which I have not yet heard suggested, and as they may be embraced in a nutshell I trust I shall be pardoned for stating them. It will not be denied that before the adoption of the present Constitution the power to preserve the peace within their respective limits belonged exclusively to the several States, to be exercised under their own laws and through their own agencies. It is also true that when the Constitution was submitted to the several States for their ratification, it was discovered that a number of amendments were necessary in order more effectually to protect the rights of the individual and to preserve the autonomy of the States themselves. Among the most striking and important of those amendments was the tenth, by which it was provided that the powers not delegated to the United States by the Constitution nor prohibited by it to the people were reserved to the States respectively or to the people. That provision stands to-day the chief bulwark of the several States against Federal aggression or any unwarranted interference with their domestic concerns by the General Government.

Now, the power and the duty to keep the peace within their respective borders is certainly not prohibited to the several States, and the question therefore presents itself, whether that power is anywhere delegated to or that duty is anywhere imposed upon the Federal Government, and, if so, to what extent and under what circumstances. Referring, therefore, to the text of the Constitution, I have been able to find but two clauses which to my mind can be of any service in the solution of the question. The first is the fourth section of the fourth article, which authorizes and in fact makes it the duty of the General Government to protect each State against domestic violence on the application of the Legislature, or of the governor in case the Legislature cannot be convened.

But it will be observed, sir, that the power to intervene even to protect a State against domestic violence is conferred upon and can only be exercised by the General Government under certain conditions, and even when these conditions exist it can only exercise that power in pursuance of the laws which Congress is authorized to enact by the other constitutional provision to which I have alluded, namely, the last clause of the eighth section of article 1. Unless those conditions exist, therefore, that is, unless an application is made by the Legislature, or the governor when the Legislature cannot be convened, it is evident that the Government of the United States has no more authority to assume to keep the peace in any State either at the polls or elsewhere, either through the instrumentality of its Army or its Navy or its marshals or any other agency, than it has to interfere in the administration of the municipal laws of any other country on earth.

It is claimed on the other side, however, that although it may be unconstitutional, yet the clause in question is harmless; but, sir, it cannot be harmless if it is unconstitutional. It may never be enforced, it is true, though in the light of the past we cannot promise ourselves any such immunity from its baneful consequences. On the contrary, we may expect to see it resorted to, as it has been repeatedly, for the very purpose of subverting the will of the people and defrauding them of their free choice. But grant that it will not be enforced, still

'Twill be recorded for a precedent;

And many an error, by the same example,

Will rush into the state—

until finally our whole fabric of constitutional government will topple into ruin. It may be the first, almost imperceptible leak in the

embankment, which, gradually widening, will ultimately become the crevasse through which will pour a deluge of usurped military authority to destroy the liberties of the people forever.

Sir, the history of our race is full of examples warning us of the danger of permitting the ballot-box to be approached by the military, and our ancestry, from the days of Edward the First, have exhibited a most commendable wisdom in precautions they have taken to guard their elections from the destructive consequences of any such contaminating influences. The statute of George the Second, which I read awhile ago, was enacted not to establish a new rule, but to make prominent a principle of law which had been in force for five hundred years and to give efficacy by prescribing a proper penalty for its violation, and all, sir, because at the election of Scottish peers, in 1784, a battalion of the king's troops was drawn up in the court of Edinburgh contrary to custom, and with no other apparent reason but for the purpose of overawing the electors. But were all other human history silent upon the subject the few facts I have exhibited, drawn from the experience of my own State in 1863, furnish an argument against allowing the presence of troops at the polls for any purpose whatever which no amount of sophistry can countervail, and no mere vociferous declamation can overturn.

But, Mr. Chairman, objection is made to the method which the majority in this House has thought it proper to pursue in order to effect the repeal of this dangerous and unconstitutional provision in our statutes—the more dangerous because it is unconstitutional—and our action in that regard has been repeatedly characterized on the other side as revolutionary and wrong. As to that matter it is sufficient to say that there is nothing in the method we have adopted prohibited either by the Constitution or the rules of the House. It is a method which has not only been repeatedly resorted to in this House, but has always been claimed as the right of the House of Commons in England, after which this House was modeled. Sir, the right to tack bills for the redress of grievances upon money bills, which can originate only in the House of Commons, was not only the means which in the first instance secured to that House the privilege of participating in the general legislation of the kingdom, but the means by which it has achieved its greatest triumphs in favor of the liberty of the subject. I ask leave here to refer the House to a paragraph or two in De Lolme's admirable treatise on the constitution of England, which places this matter in a clearer light than I could possibly hope to do myself. He says:

And indeed we see that since the establishment of this right of the representatives of the people to grant or refuse subsidies to the Crown, their other privileges have been continually increasing. Though these representatives were not in the beginning admitted into Parliament but upon the most disadvantageous terms, yet they soon found means by joining petitions to their money bills to have a share in framing those laws by which they were in future to be governed; and this method of proceeding, which at first was only tolerated by the king, they afterward converted into an express right by declaring, under Henry the Fourth, that they would not thenceforward come to any resolutions with regard to subsidies before the king had given a precise answer to their petitions.

In subsequent times we see the Commons constantly successful, by their exertions of the same privilege, in their endeavors to lop off the despotic powers which still made a part of the royal prerogative. Whenever abuses of power had taken place, which they were seriously determined to correct, they made grievances and supplies (to use the expression of Sir Thomas Wentworth) go hand in hand together, which always produced the redress of them. And in general, when a bill in consequence of its being judged by the Commons essential to the public welfare has been joined by them to a money bill, it has seldom failed to pass in that agreeable company.

Yet, sir, this proceeding, which all admit is perfectly within the constitutional powers of this House, and in accordance with numerous precedents, not only here but in the popular branch of the British Parliament, is wildly denounced as revolutionary, notwithstanding it does not in the slightest degree alter or affect the constitutional powers or duties of any department of the Government whatever. I will simply add, sir, with all proper deference to gentlemen on the other side who seem to have delighted in indulging it, that this empty iteration of revolution is to my mind too baldly absurd to be ridiculous, and nothing in my judgment could possibly be more contemptible than the coward who could be influenced by it.

But, sir, it is claimed that this provision should be permitted to remain in the statutes in order to secure the purity of our elections; and I will not question the sincerity of those who profess to believe that it is essential to that most desirable end; but I will say to them, here and now, that until they can point to one single expedient, either forcible or fraudulent, to which their party has not repeatedly resorted to destroy the purity of elections and defeat the popular will, the people of this country will be slow to believe that they will not use this for the same nefarious purpose.

Now, Mr. Chairman, I desire to say to my distinguished friend from Maine [Mr. FRYE] that I have the same devout belief in the existence of a divinity which shapes the destinies of nations as well as of individuals that he himself professes, and I have an abiding faith that the same Divine Being who led His chosen people through all the vicissitudes of their forty years of dreary pilgrimage will so order the affairs of this country that the democratic party will indeed "capture the Capitol." But I beg him and his friends to dismiss those dark forebodings which seem to weigh upon their excited imaginations. I can assure him that there will be no general sack and pillage when that consummation so devoutly to be wished shall have been accomplished.

The democracy will "capture the Capitol," but when they plant

their banner upon its Dome he will find emblazoned on its ample folds as they float out upon the breeze the golden legend formulated by the hand of the illustrious Jefferson, "Equal and exact justice to all men, exclusive privileges to none." Yes, sir, the democracy will "capture the Capitol," and they intend when they do so to restore this great Government to its original purity, to strip from the limbs of this great people the "shackles of usurped control and hew them link from link." They intend that the ballot-box, the palladium of free government and popular liberty, shall be free from the contaminations of force and fraud, and that the military shall at all times and under all circumstances be subordinate to the civil power. They intend that the ancient trial by jury, the birthright of the American freeman, shall be preserved in all its purity, integrity, and efficacy. They intend that there shall be "the strictest economy in the public expenditures that labor may be lightly burdened." They intend that there shall be "a rigid arraignment of all abuses of power and public trust in the established tribunals of justice as well as before the great bar of public opinion," and that the ringmasters, speculators, and plunderers who infest the Government shall be scourged from their places, as the Saviour of mankind scourged the money-changers from the temple. They intend that the autonomy of the several States shall be preserved, "with all their rights, dignity, and equality unimpaired," as the safest administrators of our domestic concerns and the surest bulwarks against anti-republican tendencies. They intend that the supremacy of the General Government within its legitimate limitations shall be sedulously maintained, and every orb in our splendid constellation of coequal sovereignties move onward in its own appointed path with the harmony and precision that marked the music of the spheres "when the morning stars sang together and all the sons of God shouted for joy."

Mr. HOUK. Mr. Chairman, I do not agree altogether with those gentlemen who have intimated that the provisions of the United States Constitution in relation to the Army and Navy, and to the President of the United States as Commander-in-Chief of the Army and Navy, are self-executing. I believe that when the Constitution of the United States was adopted it created out of the colonies or the original States a nation to be governed by law. It established the Congress of the United States as the legislative body, for the purpose of making laws and carrying into execution all the powers, principles, and purposes of the Constitution as designed by its framers.

And I do not believe that the President of the United States has the right, under that clause of the Constitution which declares that the Government of the United States shall guarantee to each State a republican form of government, to take the authority into his hands for the purpose of making and maintaining peace at the polls. I do not believe that under any provision of the Constitution the President of the United States can use the Army for the purpose of any police power, either at the polls or elsewhere, without the authority of congressional enactment, except perhaps in the one single instance where the executive of a State or the Legislature of a State shall call upon the President for troops with which to suppress insurrection or to repel invasion. And even then, in the view I take of the Constitution and of the powers vested in the President of the United States by its provisions, the Congress of the United States has power and authority, under the express letter of the Constitution, to prescribe the manner and the methods and the means by which such requisitions shall be answered and responded to by the President of the United States.

My reasons for this view of the Constitution grow out of the provisions of the instrument itself. The eighth clause of the first article declares that among other enumerated powers of Congress "it shall have power to make rules for the government and regulation of the land and naval forces." This is one of the enumerated powers of the Congress of the United States. The last clause of the same article declares that "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

I therefore maintain that under the Constitution the Army can be used by the President of the United States only as prescribed by law, and under such laws and regulations as Congress may make for that purpose, and I want to call the attention of this House to the fact that it was under this view that Congress, when the law now proposed to be repealed was enacted, in accordance with these provisions of the Constitution of the United States, did enact the identical laws that are now proposed to be repealed by these amendments, attached as they are to appropriation bills.

To my mind the question does not arise in this debate as to the policy or impolicy of the law at the time it was enacted. It is unnecessary for us to stand here debating whether the gentlemen then constituting the Congress of the United States did right or did wrong. The question is, and that which we are to vote upon on our oath and our duty as Representatives on this floor, whether there is any necessity or reason for this law remaining and standing where it is to-day. To that question, whether it shall be retained or whether it shall be wiped out, I propose to devote what time I shall occupy in discussing the question on this occasion.

We all know, every gentleman upon this floor knows, that at the conclusion of that unfortunate war through which we have all passed

disturbing elements appeared in various sections of the country—perhaps confined to no particular section or locality North or South, with the exception that under the processes of reconstruction as they were hurriedly carried on these disturbing elements proved themselves strongest where the democratic party was the strongest, and especially did these disturbing elements prove themselves strongest wherever there was a large number of colored voters adhering to republican principles and where a large proportion of the white population were against them. I will not stop in this connection to say whether democrats or republicans enacted this law. It is immaterial either to a statesman or a patriot who enacted it, but in the processes of reconstruction, when these disturbing elements appeared and interfered with that free ballot which every American citizen under the Constitution of this country is of right entitled to, it was a republican administration that for the first time found it necessary to enforce this law that was then found standing upon the statute-books of the nation.

And, Mr. Chairman, when this law was enforced (as I trust in God the time will come when it will be enforced again) we had fair elections in the South. I undertake to say that the only fair elections that have ever been held in many of the Southern States since reconstruction, were when the President of the United States saw proper to give protection to all classes of people under the provisions of this law that they might go freely to the ballot-box and vote and none dare to molest or make them afraid.

I desire to ask (I appeal to the other side of the House) what harm can these laws do, what harm have they done? When has a Federal soldier in all the South ever interfered with the freedom of the ballot-box or prevented a democrat from voting? Born and raised in the South, having lived in the South all the days of my life, representing a southern constituency as I now do upon this floor, all my sympathies and affinities being tinged with a degree of preference for the people among whom I have thus lived, I have for years, as gentlemen on the other side of the House of different political opinions well know, anxiously awaited the day and the hour when these laws and all other laws making any distinction on account of politics between the people of this great country should be wiped from the statute-books. When the President of the United States inaugurated his policy of conciliation, when he withdrew the troops from the South, when he commenced that policy of civil-service reform in which political distinctions were no longer to be recognized, I fondly trusted, and I believe men all over this country trusted that the era of good feeling was rapidly approaching, when "the lion and the lamb should lie down together," and we should all "shake hands across the bloody chasm" and be friends forever. I expected "peace like a river" to spread over the South. But in this I was mistaken. I desire to say, Mr. Chairman, in this connection, that if the reasonable expectations of the President and his friends had been realized, if his policy of conciliation had been met half way, if his overtures to the South had been responded to by peace instead of riot and bloodshed, I declare here in my place to-day that I would have been found standing here lifting my voice, casting my vote, not only to repeal these laws, but to wipe out and obliterate every conceivable character of political distinction on account of the rebellion. This Government is great enough to be magnanimous to all, and its loyal citizens and their Representatives can afford to forgive all who prove true to the Constitution and laws.

But, sir, how has this effort at conciliation been met? I appeal to this House to say how has it been met? Why, another gentleman in illustrating another point on this floor on a former day enforced his argument by a thought that will enforce the idea I desire to present to the House on this occasion, and I adopt it. I call the attention of the House and the country, and of every element that desired conciliation and peace in this country, to the fact that when the President of the United States was offering peace and reconciliation, offering to meet the democratic party in the South, shake hands with them and have peace—when "he has asked for bread they have given him a stone; when he has asked for a fish they have given him a serpent;" when he has plead for peace, the response has been riot and bloodshed.

Why, Mr. Chairman, unless all human testimony is to be disbelieved, unless the current history of the times written in blood in many parts of the South is to be discarded and go for naught, unless the sworn testimony of the best men of the country is that of perjured wretches and rascals, instead of peace and conciliation, rifle clubs, red shirts, bulldozers, White Leagues and the like have taken possession of the ballot-box and controlled the elections in many localities in the South, instead of giving that protection which was reasonably expected under the policy of the President of the United States.

Why, Mr. Chairman, ten years ago—I want to emphasize this before this House—ten years ago the South was republican. She sent republican Representatives to represent her interests. To-day, under a fair election and an honest count, a majority of the States of the South are republican, as every man of intelligence knows. [Applause.] But what has been the result? Where are these republican Representatives, and how do we account for their absence from this floor to-day? Why, under a false and sickly notion, the democratic party attempted to educate the people of the North to the idea that there were no republicans in the South but the negroes, and carpet-baggers, and scalawags. It was said in this debate yesterday, or the day before, that

a certain oath could not be taken by the decent people of the South in one instance, I believe, out of every thousand. Well, the gentleman who made that statement does not live in my part of the country. In the part of the country where I live the people are as loyal and devoted to this Union as in Massachusetts herself.

I should dislike to live in a country or State, or a part of the country, where not one in a thousand could swear they had been loyal to the government under whose protection they had been born and bred. But I say, under this false education, (and the gentlemen on the other side very well understand how they have manufactured it and wrought it up,) as an offshoot of that false theory which was sent forth in regard to the people of the South, we had the Greeley campaign. Under this notion, (I want to call the attention of northern Representatives to this thought,) under this idea that the wealth, intelligence, and respectability of the South were all in opposition to the republican party, even the loyal North almost went back on the republicans of the South; and in 1875, I believe it was, under bad advice the hero of the war made a mistake. General Grant, under the advice of his Attorney-General, refused to protect the republicans of the State of Mississippi, and the result was that the rifle clubs succeeded. Having succeeded in Mississippi, they spread over and subverted the republican party all over the South, and that accounts for the absence of republicans from the South in this Hall to-day.

And to-day, under these influences, under a power more hateful and odious than all the bayonets of the land, the semi-civil and military organizations of the South have overturned the rights of the people, until to-day, as was said the other day, not a single colored man remains a Representative upon this floor. When I look around me I see, Mr. Chairman, but three republicans from the seceded States of the South. That is the logical result of the policy commenced in the State of Mississippi, where it should have been checked under these laws at the time, but where it was allowed to spread over the South and invade the rights of the people.

And I desire to say in my place here, Mr. Chairman, as a Representative, that for one—others may place their opposition to this repeal upon whatever ground they please—but for one, my opposition to the amendments put upon these appropriation bills to repeal the laws referred to I place upon the broad ground of the merits of these laws and the injustice of their repeal. If permitted to stand, and the President of the United States will enforce them, we will have fair elections and republicans will be returned to Congress by the voice of the free people undriven by "bulldozers" and other organizations. [Applause on the republican side.]

I want to say for one that others may do as they please, but never while I have a seat and a vote upon this floor will I vote to repeal these statutes until every man in the South, whether white or black, whether carpet-bagger from the North or so-called scalawag from the South, has a free and untrammelled and a fair, equal chance at the ballot-box. [Applause on the republican side.] I want it distinctly understood, Mr. Chairman, we do not need any of this election machinery in my district. Not a bit of it. The republicans of the second district of Tennessee are capable of taking care of themselves, and I would hold my seat on this floor if every colored man in that district had been polled for my competitor. Further south, however, where I concede the great majority of the white people went into this democratic rebellion because it was only the democratic party on horseback that wielded artillery and small arms during the war—

Mr. McMILLIN. Will my colleague yield to me for a question?

Mr. HOUK. I promised to give a portion of my time to another gentleman, and while I should like to answer my colleague's question, I cannot do it. He will have a full and fair chance, and I had a terrible struggle to get the floor.

Mr. McMILLIN asked a question which Mr. HOUK did not hear and therefore did not answer.

Mr. HOUK. I cannot yield, or I would yield to you cheerfully and cheer you every time you said a good thing. [Laughter.]

Mr. McMILLIN. So I will cheer the gentleman when he says a good thing.

Mr. HOUK. I decline to yield, but thank the gentleman for his promised compliment, though I fear it will result like other promises made by democrats—I fear he will "dodge the responsibility" of complimenting a republican.

I repeat, Mr. Chairman, that we do not need this election machinery in my district.

The CHAIRMAN. The gentleman indicated that he would give half of his time to the gentleman from New Jersey, and he has now spoken for thirty minutes.

Mr. ROBESON. I prefer the gentleman from Tennessee should proceed until he has closed.

Mr. HOUK. I will soon close, as I wish to accommodate my friend from New Jersey, but I have two or three things further which I desire to say. [Cries of "Go on!"] I was about saying, and I believe I did say, that we do not need this election machinery in my district, but every intelligent gentleman of the House and the country very well knows there are districts in the South where the republican party is composed, a large majority of it, of that class of persons who were held in democratic bondage for more than two hundred years, and they are timid and easily driven from the polls. For the purpose of restoring freedom at the ballot-box to these people in the Southern

States, and in the Northern States if it be needed, I shall stand here and continue, day by day and time after time, voting against the repeal of these measures which, when "wiped out," will give an opportunity to carry the elections by the favored democratic methods which we all understand.

But these people, not content with the fraud of force, resorted to "tissue ballots" in order to increase democratic majorities in the South. We have one man in the Tennessee penitentiary now for stuffing ballot-boxes, and others ought to be there. [Laughter.] He was a democrat, and he stuffed the ballot-boxes in the interest of a democrat. [Laughter.]

But, sir, they tell us these laws are unconstitutional. Well, perhaps I am too young a man to claim to be a great constitutional lawyer, but I never saw a democrat in my life who did not understand the Constitution, whether he could read it or not. [Laughter and applause on the republican side.] They tell us these laws should be "wiped out" because they are unconstitutional. Go back, sir, in your recollection to 1861. Did they not tell us it was unconstitutional for Abraham Lincoln to put down the rebellion? Did they not tell us it was not constitutional to call out the troops to preserve the flag and the country? The same cry is now raised that these laws are unconstitutional.

I had intended to reply to one gentleman from Ohio, but my time is running out. [Cries of "Go on!"] The gentleman from Ohio, Mr. HURD, I believe it was, said:

Have gentlemen who have considered this question read recently section 2, article 1, of the Constitution, which declares that the House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualification requisite for an elector of the most numerous branch of the State Legislature?

The gentleman, I am told, is a good lawyer. He read this clause from the Constitution, and then, with an air of triumph, added:

It is the most numerous branch of the State Legislature that determines the qualifications of electors, and not the Constitution of the United States.

Why, my dear sir, if it is not the Constitution of the United States that determines the qualification what did you read the Constitution of the United States for in order to support your proposition? [Laughter and applause on the republican side.] Is it the most numerous branch of the State Legislature that qualifies and determines an elector? Not at all; but the Constitution of the United States, by the voluntary act of its framers, selects the elector for the most numerous branch of the State Legislature as a standard by which to prescribe the qualification of electors for the House of Representatives. The State has nothing to do with it; the State constitutions have nothing to do with it; the Legislatures of the States have nothing to do with it. It all reaches back and centers and grounds itself in the Constitution of the United States, and from that it is impossible for you to get away.

Now, Mr. Chairman, I believe that every lawyer on this floor must come to this conclusion, and I am satisfied that the gentleman himself, after he cooled down and got to thinking about the Constitution and its powers, had come to the conclusion that every legal mind must come to, that his position is illegal, illogical, and absurd. But I have not time to pursue this thought.

Now, again, Mr. Chairman, as in 1861-'5, the democracy must rule or the Government is to be wrecked. When the people voted—and I tell my democratic friends that I do not claim this as original—when the people voted a want of confidence in the democratic party and decided to transfer the administration of the Government to other hands, they went to war for four years for the purpose of destroying the Government in which they could no longer rule. And now when, by the methods and policies to which I have adverted, the republican seats upon this floor from the South are about empty, and when the same men, who started in search of their rights in 1861 and who are in a large measure in search of the same rights to-day by a little different method, have returned to this floor, they do not propose an armed resistance. Not at all. I do not believe there will be another armed rebellion in fifty years. While I will not tell the anecdote, I will suggest—and several gentlemen on the other side will appreciate it—that they have seen enough through the cracks to satisfy them on that subject, and they will not try it again. But the policy is, Mr. Chairman, to come back here at the end of eighteen years, and unless they can rule just precisely in the way and by the methods and through the channels that they desire to rule, they propose now, as was stated by the distinguished gentleman from Ohio, to starve the Government to death.

The intimation, sir, has been thrown out that the President of the United States, unless he adopts the policy that the democratic Congress may adopt, will become a revolutionist and violate the Constitution. It was said by one gentleman the other day that the veto power was vested in the President for the purpose of preventing unconstitutional legislation. Now I do not deny that the President may consider the question of the unconstitutionality of any measure in considering a bill whether he shall approve or disapprove of it. I do not deny that the President may veto a bill simply because he believes it is unconstitutional. But I have always understood, and I so understand now, that the veto power is vested in the President of the United States for the purpose of clothing him with the right to prevent what he may regard impolitic legislation being ingrafted upon the policy of the country unless the judgment of two-thirds of both Houses of Congress should be recorded against him.

And, Mr. Chairman, it seems to me that the whole argument in this case is boiled down to this: that when a conflict comes between Congress and the President it is not a question of power, it is not a question of unusual methods, it is not a question of coercion, but it is a question of arithmetic as to which shall succeed. When he sees proper to veto a measure, if two-thirds of both Houses of Congress pass it over his veto, under the oath he has taken to support and enforce the Constitution he is bound to execute it, and would stand in the attitude of a revolutionist if he dared refuse. On the other hand, when more than one-third of either branch of Congress believe the President right in the exercise of his veto power, and that the measure ought not to pass over his veto, then it is the duty and the stern obligation of every gentleman who takes an oath as a member of this body to yield and to pass the necessary laws to carry on the Government without tacking on to appropriation bills measures that are known to be unacceptable to the Executive, and which he will be compelled to veto, or approve contrary to his judgment and conscience.

It seems to me, Mr. Chairman, that this is a logical and legal proposition. There is another question to which I desire to address myself for a moment. The apology that is offered for this tacking process is untenable and illogical. The apology offered is that the republican party has been in the habit of attaching legislation of a similar character to appropriation bills. Well, now, if that were true as stated, two wrongs never made a right. But it is untrue in point of fact, if I have not searched in vain. As I understand it, whenever the republican party has attached other legislation than that germane to the appropriation bills, or that were not a part and parcel of the appropriations, it has been at a time when there was either no conflict, no difference of opinion between Congress and the President, or at a time when the republican party had a sufficient majority in both branches of Congress to pass such legislation over the President's veto; and then as a matter of economy, a saving of time, there would be nothing improper in it. But here the question is presented very differently. The two Houses of Congress perhaps differ from the President. I am not authorized to speak for him; I know if he is a good republican, which I believe he is, he will veto this bill if it passes; but I am not authorized to speak for him. Perhaps here the two Houses of Congress and the President disagree, and for the purpose of compelling the President to sanction a measure that his conscience disapproves, that the Constitution tells him he has a right to veto, they tack it on to an appropriation bill and propose to starve or to smoke out the officers of the Government and the Government itself.

Mr. Chairman, I wish to repeat, and I call the attention of gentlemen to the fact, that the right of the President to veto a measure is just as clearly defined in the Constitution as the right of this House or the other to pass a bill; and whether by subterfuge or any other legerdemain to coerce the President, to take from him that free choice which we as Representatives of the people claim for ourselves, is revolution against the Government just as much as an armed rebellion would be revolution.

But it may be our State-rights friends will say that the Government has no power to keep the peace at the polls of a State election. I do not understand that to be the proposition. I do not understand that this law was ever enforced, except in military times, at a State election. A congressional election is not a State election; it is an election under the Constitution and laws of the United States, and I want to call attention to the two provisions of the Constitution upon which I base my opinion. Sections 4 and 5 of Article 1 of the United States Constitution settle this question. I will read:

The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof.

If the Constitution had stopped there our democratic friends would be right, but it does not do it. It goes on to say:

But the Congress may at any time by law make or alter such regulations.

This gives Congress plenary power over the subject of the election of Representatives to this House and of Senators.

Now, sir, I ask every lawyer, every logical-minded man upon this floor, if under this provision of the Constitution and under the next section, which declares that—

Each House shall be the judge of the election, returns, and qualifications of its own members.

I ask every candid man upon this floor, regardless of party, if under these provisions of the Constitution Congress has not a right, as a part of the "manner" and machinery of holding elections, to elect members of its own body, to prescribe that wherever there is a mob, whether it be through the instrumentalities of a State or a mob composed of the citizens of a State, the troops shall keep the peace at the polls, as a part of the "manner" of holding the election? And may not the President of the United States be authorized by Congress to use the Army to keep the peace at the polls and to put down the mob?

Mr. Chairman, is this a nation or is it a league of States? Our democratic friends are tremendously sensitive in regard to the presence of United States soldiers about election precincts. Is it possible that the democratic party is afraid of nobody but United States soldiers? They want United States soldiers kept from the polls, but they have not a word to say about the ku klux or the "red-shirts," "white-liners," "white-leaguers," "rifle clubs," and their like being kept from the polls. Why not amend the law so as to drive these from the ballot-box and from the polls as well as Union soldiers?

The United States soldiers are under the restraint of the law. The red-shirts are independent in their sphere and can do as they please. Now, we might all vote for the bill, I do not say that I would—if the democratic party would insert a provision that the “red-shirts” and “rifle clubs” and other *attachés* of the democratic party would be sent to the penitentiary if they appeared at the polls. [Laughter and applause on the republican side; and cries of “Go on!” on the democratic side of the House.] I know that the gentlemen on the other side like to hear me talk because they know I tell the truth about these things and about the democratic party. [Applause and laughter on the republican side.]

I now ask the question, is this a nation? If it is, has the one thirty-eighth part of the United States more power than the thirty-eight States combined and cemented together by the bonds of a written constitution, with one federal head; having executive, legislative, and judicial departments of a common government? Is it not a paradox? Is it not a caricature of all our conceptions of nationality for the party in the majority in both branches of the American Congress to seek to enforce a doctrine that would make a little petty State superior to the union of all the States in one grand whole? Sections 4 and 5 of the first article of the Constitution to which I have referred give the power that I claim, but I want to submit this solemn inquiry to this House in conclusion of what I have to say: Is it possible that this great Government of which we boast can protect its citizens upon every foreign soil under the shining sun of heaven, and cannot protect them in South Carolina and other States of the Union?

I want to see this Government made so strong—I maintain that it is already so strong that it has the power under the Constitution and the laws to carry protection to the door of every man's house, whether it is in South Carolina, Tennessee, or elsewhere, the same as it can carry protection to an American citizen even under a foreign flag.

Why, sir, suppose—and I put it to you upon this side of the House and to the gentlemen upon the other side of the House—suppose that a foreign government should treat an American citizen as men are treated in many of the Southern States about election times; suppose a foreign government should treat an American citizen thus, would not a million of men spring to arms and avenge the insult?

Here is a great country, that can make foreign nations tremble in its presence, and when it turns within its own borders has to bow to the tyranny of a petty State and stand powerless in deference to the cry of “State rights.” [Applause and cries of “Go on!” by the republicans.]

Mr. THOMAS TURNER. I ask unanimous consent that the gentleman's time be extended.

The CHAIRMAN. The gentleman's time has not expired.

Mr. HOUK. You are getting scared at the wrong place. I am done shaking the “bloody shirt” now. [Laughter.] I will say to the other side of the House that if they had not bloodied the shirt in the beginning we would never have had it to shake at them. If you will never bloody it any more, we will quit shaking it. [Laughter and applause.]

Now, Mr. Chairman, if I had my way—I do not expect to get it until after 1880—I am satisfied that I will have it then, in a very large measure, because I can say to the gentlemen on the other side of the House that after that time the places that know them now will know many of them no more forever in their representative character—I say if I had my way I would have Congress take this subject of national elections in its own hands. I want to see one general law passed, and if such a measure comes before this body while I am a member, providing for the holding of national elections under and by authority of the United States, I shall vote for it to the exclusion of the States entirely.

I now desire to yield the floor, and if the gentleman from New Jersey [Mr. ROBESON] will take the scrap of time I have left I will yield to him; if not I will yield to some other gentleman. [Cries on the democratic side, “Go on!” “Go on!”] Now, gentlemen, behave yourselves [laughter on the republican side] while I yield to the distinguished gentleman from New Jersey, [Mr. ROBESON.]

Mr. ROBESON. How much time is left of the gentleman's hour?

The CHAIRMAN. But two minutes.

Mr. ROBESON. Then I will occupy that time.

Mr. BLACKBURN. I ask unanimous consent that a reasonable time be accorded to the gentleman from New Jersey, if he will indicate how much time he wants.

The CHAIRMAN. Is there objection to the gentleman from New Jersey [Mr. ROBESON] occupying a half hour, it having been understood that he would have that much of the time of the gentleman from Tennessee, [Mr. HOUK.]

There was no objection.

Mr. ROBESON. I am very glad, Mr. Chairman, that I have not consumed any of the time which of right belonged to the gentleman from Tennessee who has just taken his seat, [Mr. HOUK.] The remarks which he made come with appropriateness and force from him, but from our stand-point at the North they would be neither so appropriate nor so effective.

I shall myself consume none of the time for which I am indebted to the courtesy of this House in any appeal to feeling or in any suggestion of facts with which I am not myself familiar, but shall confine myself wholly, if possible, to the consideration of the questions of law which seem to be involved in this discussion.

It seems to have been assumed on the other side of this Chamber that this is nothing but the repeal of a section of a law enacted in 1865; that it is a negative and not an affirmative provision. Let us see exactly what it is:

That section 2002 of the Revised Statutes be amended so as to read as follows: “No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States.”

This omits the other exception contained in the original law. “or to keep the peace at the polls.” This, then, refers to civil officers and is an affirmative repeal of the right of the civil officers of the Government to keep the peace at the polls. We are not standing here on this side of the House resisting a proposition to take away a real or imaginary power of a standing army to crush the rights of freemen at the polls. We are resisting an affirmative enactment, for the repeal of an exception in a restricting law is itself an affirmative enactment. We are, then, resisting an affirmative enactment which designs to take away the power, not of the officers of the Army alone, not of the officers at all, because they under that law as it now stands only have power as they may be ordered or summoned forth by the civil officer to whom the peace of his bailiwick is intrusted.

What, then, is intended by this provision? To restrain the civil officers of the United States Government from keeping the peace at any election in any State whether it be a United States election or not. By what means? By civil means, not by military means, for the rights of the civil officer, the marshal of the district if you please, to summon the *posse comitatus*, his right to summon any military organizations if they be within the body of his bailiwick, the right to summon armed troops to sustain his civil power, is a civil and not a military right, and is in the interest of the inviolability and the strengthening of the law against, if need be, armed military force. Can that be denied by any lawyer? Can it be controverted by any man?

Mr. KIMMEL. Will the gentleman describe the bailiwick of United States officers?

Mr. ROBESON. The jurisdiction of the United States runs into the States whenever it has a United States duty to perform. That is not only good logic but good law.

Mr. KIMMEL. To preserve the peace of an election at a State election?

Mr. ROBESON. Wherever the United States has guaranteed a right; wherever a right is derived from the Constitution of the United States and is guaranteed or is secured by it, there the United States has the right and must have the power to enforce and carry out that right.

Mr. KIMMEL. What right has it guaranteed in this respect?

Mr. ROBESON. It has guaranteed the right to every man in the State of Maryland, who has the right to vote for the most numerous branch of the Maryland Legislature, to vote at a peaceable election for members of Congress. [Applause on the republican side.]

I know what the decisions of the Supreme Court are upon that subject, and I will meet them fairly. I love the law and its principles, and I shall not shrink from the full effect of the decisions as they are pronounced by the highest tribunals of the country.

I know that the Supreme Court of the United States has declared that the United States has no voter “of its own creation” in the States. I know that it has declared that the right of suffrage is not given in the States by the Constitution of the United States. But that does not cover the case. What does the Constitution say?

The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the Legislature.

The right to vote for that most numerous branch of the Legislature is given by the States. The qualifications are made by the States. The United States does not confer the right of suffrage upon these individuals, but it adopts to its right of suffrage and takes as its voters a class which have already the right of suffrage given it by the States. It makes them its voters for the election of its officers, and if it does its duty it is bound to guarantee to them a free and fair election. [Applause.]

Let me be fully understood. It is technically and verbally true that the Constitution of the United States does not confer the right of suffrage upon the individuals who vote for the most numerous branch of the State Legislature. That right of suffrage and the qualifications necessary to it are prescribed by the State. But the Constitution of the United States does say that every man who does belong to that class, every man who has that qualification shall be an elector for members of this House. That is the right which it guarantees. It does not give to any individual the right to belong to that class; but when he belongs to that class it gives him the right to vote at an election for a member of Congress.

Mr. McLANE. Let me ask the gentleman—

Mr. ROBESON. I have but little time remaining, and perhaps I may in the course of my remarks meet the suggestion which the gentleman desires to put. If not, I hope he will call my attention to the point.

Mr. McLANE. I have no question to make with the gentleman as to his argument upon the proposition that suffrage is given by the

States, and that by the Constitution of the United States the elector made such by the States is made an elector for Representatives in Congress. The question I desire to put to the gentleman is with reference to the part of his discussion preceding that point. Do I understand him to say that the Government of the United States has the right to keep the peace anywhere within a State? Do I understand him to say that there is any "peace of the United States" at all recognized by the Supreme Court of the United States?

Mr. ROBESON. Certainly I do.

Mr. McLANE. Then I would like to ask the gentleman from New Jersey to give this Committee of the Whole any such decision of the Supreme Court. There is none such in existence.

Mr. ROBESON. I read from the opinion of Attorney-General Cush- ing—

Mr. McLANE. That is not an opinion of the Supreme Court of the United States.

Mr. ROBESON. No, sir; the question has never arisen so as to be decided by the Supreme Court of the United States.

Mr. McLANE. My question is whether the gentleman can refer to a decision of the Supreme Court which recognizes any peace at all as "peace of the United States."

Mr. ROBESON. Why, does the gentleman from Maryland mean to say that where the Constitution of the United States has guaranteed a public right, and where the Congress of the United States has passed a law to enforce that right—when that right is about to be exercised by the proper persons, and it is interfered with by riot and disturbance—does the gentleman mean to say that it is not within the power of the marshal of the bailiwick to use the force of that bailiwick to restrain and repress that riot?

Mr. McLANE. I have too much respect for the character of the gentleman from New Jersey—

Several MEMBERS. (to Mr. ROBESON.) Oh, go on.

Mr. ROBESON. I have been treated very fairly in this debate, and I hope the gentleman from Maryland will proceed.

Mr. McLANE. If the gentleman from New Jersey supposes that I am confounding the right of the Government of the United States to send its Army to support its marshal in the execution of a process, with the right to "keep the peace," the latter being a technical and legal term understood by every lawyer in the country—I say if the gentleman supposes that I am confounding those two questions, I cannot have any respect at all for his intelligence.

Mr. ROBESON. I recognize the distinction between the power of the marshal in the execution of the process of the courts, and the power of the marshal in the execution of other duties; but I say that the power of the marshal to summon his *posse comitatus* to execute process depends upon the power given to the courts by the Constitution of the United States and the act of Congress which authorizes him to do that; and there stands to-day upon our statute-book, not yet repealed, a law which says that the United States marshals, for the purpose of carrying out the election law, shall use the power of their bailiwicks.

Mr. McLANE. I again ask the gentleman whether there has ever been any ruling of the Supreme Court of the United States which recognizes the right of the United States to "keep the peace?"

Mr. ROBESON. I have said, and I say again, I never knew the question to arise in that form; but there have been rulings of the Supreme Court of the United States to the effect that wherever there was a right guaranteed or secured by the Constitution of the United States there rested with the United States the authority and power to enforce and secure it.

Mr. McLANE. A totally different question.

Mr. ROBESON. I am not now saying there is any decision of the Supreme Court upon that subject; once again I say that I know of none which covers that exact point. But I ask gentlemen what is the power of the Government of the United States worth if it is not clothed with authority to carry out and execute it against all interference or resistance?

Now let me read upon this subject from the decision of Mr. Justice Story in the case of *Prigg vs. The Commonwealth of Pennsylvania*—the original fugitive-slave case in this country:

If the Constitution guarantees the right and requires the delivery on the claim of the owner, as cannot be well doubted, the natural inference necessarily is that the National Government is clothed with the necessary authority and functions to enforce it. The fundamental principle of law applicable to all this class of cases is that where the end is required the means and the power are also given.

Mr. McLANE rose.

Mr. ROBESON. Pardon me, but I cannot yield further unless there is consent that it shall not be taken out of my time. If it is not to come out of my time I will yield to the gentleman as long as he wishes.

Mr. McLANE. I submit, after the gentleman has undertaken to discuss the law of this case, it is not reasonable that he should refuse to answer the direct question I have asked.

Mr. MITCHELL. I insist the gentleman from Maryland shall not interrupt the gentleman from New Jersey, out of order and without his consent.

Mr. ROBESON. I hope that point of order will not be insisted upon. We have had nothing on this side of the House to complain of in the conduct of this bill. The gentleman who has charge of it has conducted it in good temper and courtesy.

Mr. McLANE. I should think it very extraordinary that, as a return for the courtesy extended to the gentleman from New Jersey, any man on either side of the House should attempt to withhold the same courtesy from another.

Mr. MITCHELL. The gentleman from Maryland ought not, after the courtesy has been extended to him of asking a question, proceed to take up the whole time of the gentleman from New Jersey.

Mr. GARFIELD. I have no doubt the House will make up whatever time the gentleman from New Jersey has lost.

The CHAIRMAN. The Chair will see that the gentleman from New Jersey is protected in his right.

Mr. BRIGHT. Mr. Chairman, there are other gentlemen who desire to speak upon this question, and the time under the rule cannot be extended by anybody.

Mr. ROBESON. It is true that by order of this House the time has been fixed for debate upon these measures, and that time has been divided among members who are to follow me, and it would therefore not become me to ask any further courtesy to the injury of those whose rights are involved. That is the only objection I have to yielding further to the gentleman from Maryland. I will go on and answer the gentleman by this suggestion, that if the Constitution gives the power to the United States to summon its armed posse, through its civil officer, to execute its law under the fugitive-slave act, does the gentleman mean to say that if it is at a United States election—and that perhaps is the point in dispute—if it is at a United States election that the right and interference occurs, the officer of the United States might not summon the posse and use the power of the country to insure that it shall be a free election? That is the whole point.

Mr. McLANE. I do not mean anything of the kind, but I do mean to say that the gentleman from New Jersey understands very well that the Supreme Court of the United States has decided that it has no power or jurisdiction.

Mr. ROBESON. The gentleman will have a chance to speak on this subject in his own time.

Mr. WILBER. I insist it is hardly fair that the gentleman from Maryland [Mr. McLANE] shall insist upon taking up the time of the gentleman from New Jersey.

Mr. ROBESON. I try to be fair, and the gentleman sees it. I will now return to the point I first made and repeat it, namely, that what we are resisting here is an attempt to take away the power not of the officers of the Army, not of the commanding general, not of anybody clothed with military authority, but of the civil officers of the Government to keep the peace at the polls if need be by summoning all the power of his bailiwick, including any armed force there may be in it. That is what we are resisting here. We are not here in advocacy of a war measure, but we are here to resist this restraint of civil right.

My friend, the gentleman from Ohio, [Mr. HURD], the other day said the danger of republics came from military usurpation; that all that had perished had fallen by the sword. Well, sir, and if this be true, how do they fall by the sword? They fall by the sword when the laws are nugatory, when civil rights are denied, when the civil power of the Government cannot be enforced. This right which we are now defending is a civil power given to the officers of the law, which should in time of peace be superior to the military power of a country. It is a power which may be exercised in an extreme case to summon the brave hearts and strong arms of the citizen soldiery of any section to put down any attempt of an armed usurping power to interfere with free elections. This is not a fight we are making in behalf of a standing army; it is a fight in behalf of civil process and the power which must lie behind it, if it is to be effective.

It has also been said, Mr. Chairman, that these laws should be repealed because they are unconstitutional. How are they unconstitutional? I have already stated that the Supreme Court declares that the United States has no voters of its own, none "of its own creation," not that it has no voters, but that it has no "voters of its own creation" in the States; and I suppose it is upon that point that gentlemen stand when they say the United States has and can have no election the peace of which it can guarantee within the States.

It has also been said, Mr. Chairman, and I must be hasty and suggestive only in my remarks, for so much of my time has been necessarily taken up in interruptions and properly consumed that it is almost all gone—it has also been said that this House of Representatives, by the analogy of its nature and power to that of the English House of Commons, has the right and the power to put upon an appropriation bill these clauses. I admit they have the power to put them on; but do they not go one step further? I have no right to speak for any gentleman on the other side of this Chamber. I have no right to speak for the President of the United States, but it has been given out here in debate; it has been given out through channels more or less authorized; it speaks to the common sense of the country when we see these clauses put upon an appropriation bill, that the gentlemen on the other side of the Chamber mean to say to us and to the President, "Take the whole dose or none;" that they mean to say, "Pass this affirmative repealing clause taking away the powers of civil officers to keep the peace at the polls, or do not take the appropriations of the bill. We do not want peace at the polls; take away the power of the law to enforce peace there or we shall refuse your supplies."

It was argued by my friend from Ohio the other day that this position was right and proper, and he said that if this should be done, there never was a case where it was more called for. Mr. Chairman, we are here members of a government under a written constitution which defines and limits the powers of all branches of the Government. One branch is hardly more popular than another. We have neither King nor Lords nor Commons. We have elements of popular government co-ordinate under our Constitution; three of them are responsible more or less directly to the people. The President of the United States goes to the people every four years to answer for his conduct and to receive their condemnation or their approval. This House goes every two years. Both are popular, both represent the people within those co-ordinate spheres and those limits which the Constitution has assigned. There is no analogy with the organization of the English government, which has a monarch with kingly and royal prerogatives, who represents himself, his family, his royalty, his prerogative, and his inheritance, and a house of peers which represents their property, their dignity, and their peerage, and the House of Commons, which alone is elected by the people and alone is responsible to them. Here all the branches of our popular Government respond to the bidding and are dependent on the votes of the people. Our Constitution provides that when there is a law on the statute-book it shall not be repealed unless that repeal has the assent of both branches of Congress and the approval of the President; and if it fail to receive the approval of the President, then the law shall not be repealed unless two-thirds of both Houses concur in that repeal.

That is all that the Constitution provides on this subject and it is all the power under the Constitution which gentlemen on the other side of this Chamber and at the other end of this Capitol have. And if they ask more than that they ask what the Constitution does not give them, because the Constitution says that when a law is once on the statute-book it shall not be swept away if the President and more than one-third of either House object. That is the limit and extent of their constitutional right and power of repeal.

And when they come here, not waiting for the time which they think they see, when they shall have all the branches of this Government under their own control, and say, "We will force this repeal, although not constitutionally entitled to it, by withholding supplies," do they not then do an unconstitutional thing? If they say to another branch of this Government, "Give us what we have no constitutional right to ask, and if you do not give it we will refuse to do our constitutional duty, refuse to do what the Constitution requires us to do," is not their action then unconstitutional? If they say to those who deny them, and who have the constitutional right to deny them, "You shall agree or we will refuse to discharge our constitutional duties; we will refuse to pay the salary of the President; we will refuse to pay the salaries and expenses of the courts; we will refuse to supply the money necessary to carry on the machinery of this Government," is not that unconstitutional? And if it be unconstitutional to do that; if their refusal goes to the destruction of the Government itself; if it stops the wheels of Government; if it brings us to a standstill and a destruction, is not that revolutionary?

My friend from Ohio, as I have already said, warned us that it becomes us to look sharply and keenly to the use of military power, for by the military and through their means republics have always died. I beg to take some issue with him there upon his historic accuracy and fairness. The last final blow to the liberties of republics has usually come from the sword, but it has not been until some branch of the government has usurped to itself rights which it did not enjoy under the constitution and laws of the country, and has thus destroyed the unity and power of civil government. It has not been until some branch of the government, usually a branch claiming most especially to represent the popular will, has usurped to itself powers which did not belong to it and absorbing or destroying the other branches, has broken down government and unsettled society. It was only after the Long Parliament of England had disgusted the people of England by their disregard of civil and of personal rights and by their assumption to themselves of everything which belonged to the government that that stern soldier, Oliver Cromwell, dared to invade that house and dissolve it with his military power. It was only after the assemblies and the councils of the French Republic had made France with its fair cornfields and its vine-clad hills run red with the blood of its best and noblest, not until Europe was appalled at the scenes of murder and of wrong which they perpetrated, not until the world stood aghast at the crimes which were committed in the name of liberty, that the young Napoleon with his armed soldiery was able to seize upon the government of the country and erect upon its ruins his military empire.

Now, Mr. Chairman, we belong to a system of Government with co-ordinate and limited powers, all bearing relation to each other, each having its appropriate sphere, each clothed with its actual duty, each having under the Constitution its proper scope, power, and restraint. It is like the solar system in the heavens, each member of it dependent upon the other, each held in its place, each governed in its motions, each restrained in its orbit by the power and the attractions of the other members of that system. Let one of those spheres invade the orbit of the others, let it break loose from the influence of the laws of gravitation which move and direct it and from the centripetal and centrifugal forces which hold and control it, what becomes of it

and of the system of which it is a member? It wanders abroad not only to the destruction of its co-ordinate spheres, but an object of terror to the universe and of destruction to itself.

Now, we are here co-ordinate members of this Government, all held in harmonious accord by rights, privileges, powers, and restrictions of the Constitution of the United States; and when one member of that system breaks loose from that attraction which holds and restrains it in its true relations to the other members, its old landmarks all swept away, its old traditions all forgotten, its old and safe attractions all gone, it will riot through the system, an object of terror and dismay, a mighty instrument of evil.

Mr. Chairman, it is on the ruins of disrupted systems of government that military power arises. It is in the confusion, the disorder, arising from the loss of civil rights to be guaranteed and executed by the civil officers of the law, it is with the overthrow of constitutional law and amid the smoke of such a conflict which this occasion, that the "man on horseback" rises and liberty is sacrificed to order. So long as the civil processes of the law may be properly executed by the civil officers in this country, so long there is no danger of military power. The strong arm, the clear head, the brave hearts of our people, North and South, would never yield to a military usurper, though backed by a standing army of a million of men, unless it became absolutely necessary under the pressure of the usurped and arbitrary power of some irresponsible assemblage to sacrifice liberty to order. That time will never come in this country unless we disregard the plain teachings of the Constitution which our fathers gave to us and which we are sworn to preserve.

Mr. Chairman, the gentleman from Ohio took occasion to say, in allusion to the Executive of this country, that his title was in doubt and his tenure of office yet uncertain. I do not claim to speak for the Executive, but I cannot think the gentleman really meant all that. Certainly I hope he did not mean it as a threat, because if he did, if that is the giant of revolution "whose baby fingers to-day we see" in the action of this House, let me say to the gentleman that the excitement which is apparent throughout the country to-day is but the mutterings of a storm which will increase in fury, will grow in strength and in resistless power, until the men and the party who endeavor to unsettle the title of the President of the United States will be swept forever from the political horizon. [Loud applause.]

I am sorry, Mr. Chairman, that I have been led from the line of legal discussion which I intended to pursue, and have been only able to suggest to the House the general topics which I otherwise would have tried more carefully to illustrate.

[Here the hammer fell.]

Mr. COFFROTH. Mr. Chairman, I intended to discuss the sixth section of the bill now under consideration, and also to give a history of the act of February 25, 1865, and the reasons which prompted me to vote for it when a member of the Thirty-eighth Congress, and why I now will vote for the bill before this House, which to a certain extent modifies the act of 1865; but I am induced to yield my time to the gentleman from Kentucky, [Mr. BLACKBURN,] who will be chairman of the committee during the consideration of the legislative and judicial bill and who will not have the privilege of speaking on that bill. I will avail myself of the opportunity during the discussion of that bill to present my views. I now yield to the gentleman from Kentucky, [Mr. BLACKBURN.]

Mr. BLACKBURN. Mr. Chairman, I trust that in what I may have to submit for the consideration of this committee I shall in no wise derogate from or lower the plane of fairness and dignity with which in the main this discussion has been conducted by my colleagues on this side of the Chamber. I trust that no utterance of mine will give color to the charge that in my judgment any sectional question is involved in the consideration of the issue before this committee.

I do not intend, sir, to be personal in anything that I may say. There has come from different members of the other side of the House during this debate that which, in my judgment, requires and merits notice, and I shall go back, before I shall have finished, several days to reply as best I may to the points that have been made by the distinguished gentleman from Ohio, [Mr. GARFIELD.]

I take it, sir, that nobody is surprised at the appearance of the honorable gentleman from New Jersey [Mr. ROBESON] who last occupied the floor. This debate would not have been complete or fairly rounded out unless some member of the privy council of that imperialistic dynasty under whose administration these very vicious practices grew up which it is now sought by this amendment to repeal should have appeared upon this floor to testify in their behalf.

It is charged, sir, not that the amendment under consideration involves of itself an unconstitutional piece of legislation, but it is urged by various distinguished members on this floor that it is revolutionary in its character; that it has no proper place on an appropriation bill; that it is out of line, and deserves the condemnation of the House because it is an exotic in this connection and should have been considered as an independent bill. It is charged further that the tendency and operation of it will be to restrict the power of the President as Commander-in-Chief of the Army of the United States.

Now, Mr. Chairman, he is but a poor student of this country's history who is not able to satisfy himself that from the very formation of the Federal Constitution down to the present time it has ever been held, and that by the highest authorities of the land and never suc-

cessfully denied, that it was a power not only of the American Congress but a power of this House to control the employment of the Army by a withholding of supplies.

The debates upon the formation of the Federal Constitution which lie before me show that the brightest intellects assembled in that convention asserted this doctrine in its broadest term and no man dared gainsay it. It is one of those features of English liberty that have come down to us by adoption.

It was so stated in the debates upon the formation of this instrument, as given to us, that it is ever and always in the power of the House of Representatives, by copying the example of the House of Commons of England in withholding supplies, to control absolutely the employment and conduct of the Army. You may follow that theory down at short intervals, and in 1819, when an Army appropriation bill was considered and passed in this Chamber and it was proposed to restrict the power of the President by specifying the purposes to which the appropriations should be applied, the very same argument was made against it then that our friends upon the other side hurl against us now.

It was upon that occasion that Mr. Mercer, one of the brightest among the law-makers of the Government of his day, asserted upon this floor, without encountering contradiction, that it was in the power of the House of Representatives to withhold supplies altogether for the maintenance of the Army if, indeed, that should become necessary to control its operation. It was then that one whose patriotism has never yet been questioned, though it has survived through the greater portion of a fading century only to grow brighter as the ages go by—it was then that not only Kentucky's, but America's great commoner, Mr. Clay, declared in his burning words of eloquence, uttered where we now sit, that he was ready to make the issue with the Executive and offer him a bill with the objectionable features incorporated in it, and to say to the Executive: "Sign or refuse to sign it; but if you do refuse to sign it, declaring that we have not the power to pass it, then my answer to you shall be, neither has the Executive the power that you arrogate to yourself." And you may come down from then till now, and never in the history of this Government has it been denied that the Constitution itself, which gives to Congress the right to pass these money bills to provide means for the support and maintenance of a military establishment, carries with it the resultant right on the part of Congress to withhold those appropriations when in its judgment it is necessary to prevent abuses in the employment of the military.

In the very nature of things this proposed amendment of the law cannot be revolutionary. It is a repealing statute; its only purpose and object is to repeal an existing law. I will not now pause to tell how or under what circumstances it was passed; I will not now pause to delineate the motives which, in a great measure, because of the prevalence of natural passions, inspired, if they did not excuse, the passage of this law. But in the very nature of things this amendment cannot be revolutionary. Negative legislation is never revolutionary. This is not affirmative legislation, twist the issue as the gentleman from New Jersey [Mr. ROBESON] may seek to do. Buckle, the most philosophic of all historians either ancient or modern, has told us that the statesman and the law-maker seldom, if ever, render a benefit to mankind by the enactment of affirmative laws; that it is rather by the repealing of obnoxious and vicious enactments that they entitle themselves to the gratitude of humanity.

As I have said, this measure is in its very nature anything but revolutionary. Will it be claimed—is there a gentleman upon that side of this Chamber who will undertake to claim—that by reason of any provisions of the Federal Constitution the President now holds the power of which this amendment proposes to deprive him? Is there a man left in this House on either side who, after the clear and logical presentation of the issue made a few days since by my colleague from Kentucky, [Mr. CARLISLE], will undertake to assert that there was any such power on the part of the Executive prior to the act of Congress of 1795?

Sir, if the utmost be granted, if it be admitted instead of being denied, as we deny it, that this power was originally held by the President, it was held by reason of a congressional statute, and of necessity the authority passing that statute and conferring that power must be clothed with equal authority to repeal it.

The Constitution does not give to the President the right to send the armed forces of this Government into any State even to suppress domestic violence; by no means. It gives the right to the President of his own motion, it goes further and requires him, to protect each State from invasion by the employment of the military power. But it only confers upon him the authority to send the armed soldiers of this Government into a State to suppress domestic violence when the Legislature of that State, or its governor, the Legislature not being convened, shall make a requisition upon him.

He is not to proceed upon apprehension; he is not permitted to anticipate domestic violence. Neither he nor the executive of the State nor its Legislature are permitted to exercise such anticipation. It must be upon a pre-existing state of things. Domestic violence must exist and that fact must be certified by the Legislature of the State whose peace is disturbed, or when that Legislature may not be convened, then by the chief executive of that Commonwealth.

The President of the United States is the recipient of no power of

implication. There is not a prerogative that he holds which is not clearly defined and clearly limited by the provisions of our organic law. That Constitution has made this Congress, in express terms by positive provision, the grand reservoir into which all powers of implication flow. No, sir; this amendment cannot in the very nature of things contemplate revolutionary action.

But it is said that it is not in its proper place when ingrafted upon an appropriation bill. Is there a gentleman in this Chamber who will dare deny or take issue with me upon the assertion—and I make it measuring the full import of my words after a careful examination of the statutes—that more than one-third of the permanent legislation affecting or relating to the Army of this Government, as it stands upon the statute-books of your country to-day, has been put there as riders upon Army appropriation bills?

I do not care to trench upon the patience of this committee by any elaborate review of the countless instances which that side of the House have furnished us in the shape of precedents for the action that we take. Sir, if lectures upon revolution are to be read to us, let them come from some quarter and from some member who is not himself convicted on the record.

The gentleman from Ohio [Mr. GARFIELD] told us that this was an effort, an unmanly effort, to starve the Government to death. He contrasted it with what he termed the bolder and braver action of certain members of Congress in 1861, when they left their seats in these two Chambers and carried their issue to the field of carnage. He tells us that this is revolution, and he denounces any effort we make to adopt it.

Mr. Chairman, better would it have been for the people of this land if the well-earned power of the distinguished gentleman from Ohio had been employed at an earlier period of his political history in averting, denouncing, and opposing revolutionary legislation. Does the gentleman remember the record that he made in 1865 upon an amendment offered by Mr. Wilson, of Iowa, proposing to revolutionize the judicial system of his country, proposing to rob a co-ordinate branch of the Government, and that, too, the last barrier behind which the liberty of the citizen finds shelter, proposing to strip the Supreme Court of the United States of the prerogative and power with which the Federal Constitution has clothed it? Does he remember the record he made when Mr. Wilson's amendment, which reads as follows, was offered?

Provided, however, That if any circuit or district court of the United States shall adjudge any act of Congress to be unconstitutional or invalid, the judgment, before any other proceeding shall be had upon it, shall be certified up to the Supreme Court of the United States and shall be considered therein, and if upon the consideration thereof two-thirds of all the members of the Supreme Court shall not affirm said judgment below, the same shall be declared and held reversed.

Upon the call of the yeas and nays the gentleman from Ohio is found voting "ay;" and then that amendment was passed through this House by the aid of that gentleman's vote. That court then consisted of eight judges; and under the bill it required six of the Supreme Court judges, more than a quorum, to affirm the opinion of a district or circuit Federal court declaring unconstitutional one of the gentleman's own ill-advised, hasty, crude, if not partisan measures. Here, sir, I beg the attention of the committee for a minute. A district Federal judge might hold one of these hasty laws unconstitutional; upon appeal the circuit Federal judge might affirm that decision. What then? The United States district attorney might concur in the judgment rendered. No appeal might be asked. But under that act, which received the support of the gentleman from Ohio, it became absolutely imperative to certify the record without appeal (nobody complaining) to the Supreme Court of the United States. And then what? Under the law a majority of that court constituted a quorum. Five is a majority of eight. Five of those Supreme Court judges, clothed in their spotless ermine, might be upon the bench. All five of them might by unanimous concurrent action declare that the two lower judgments were correct, and yet that law was to be held, under the bill which the gentleman supported, constitutional and valid. Revolution! What is there (before I get through I will ask this committee to tell me) that the party the gentleman so ably leads has not done in that direction?

But, sir, this is not all. The gentleman from Ohio in that effective and able speech to which he treated this House a few days ago used the following language, which I read from the RECORD:

In opening this debate, I challenge all comers to show a single instance in our history where this consent has been coerced.

What consent? The consent of the Executive by extraneous matter injected into appropriation bills.

This is the great, the paramount issue, which dwarfs all others into insignificance.

I accept the gage of battle that the gentleman throws down. I read from the records and show him the instance he seeks. I find that on the 2d day of March, 1867, a thing occurred in this House of which the gentleman should have been cognizant, for he was then as now an honored member on this floor. I find the following message was sent by the then President of the United States to the House of Representatives:

To the House of Representatives:

The act entitled "An act making appropriations for the support of the Army—

Ah, by singular coincidence that too was an Army bill, just as this is.

The act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," contains provisions to which I must call attention. Those provisions are contained in the second section which in certain cases virtually deprives the President of his constitutional functions as Commander-in-Chief of the Army, and in the sixth section which denies to ten States of this Union their constitutional right to protect themselves in any emergency by means of their own militia. These provisions are out of place in an appropriation act.

Did the gentleman from Ohio borrow his recently used protest from this official protest of the Executive of the country?

These provisions are out of place in an appropriation act. I am compelled to defeat these necessary appropriations if I withhold my signature to the act. Pressed by these considerations—

I grant you, he does not say "coerced."

Pressed by these considerations, I feel constrained to return the bill with my signature, but to accompany it with my protest against the sections which I have indicated.

ANDREW JOHNSON.

MARCH 2, 1867.

Is there no coercion there? Why, sir, the record is full. In an act making appropriations for the sundry civil expenses of this Government for the year ending June 30, 1865, it was provided that in the courts of the United States there should be no exclusion of any witness on account of color, or in any other civil action because he is a party interested in the issue to be tried. Is not that extraneous matter? Yet upon this bill the record shows that the gentleman from Ohio is found voting in the list of ayes.

But, sir, worse than all this, I find that on a memorable occasion in the Thirty-ninth Congress, of which the gentleman from Ohio was likewise a member, that occurred which will never fade from the minds of the American people. I refer to the proceedings looking to the impeachment of the Chief Executive of this Republic, which came so high resulting in conviction. On that occasion I find that a colleague of the gentleman from Ohio, Mr. Ashley, moved to suspend the rules to allow him to make a report from the Committee on what? Judiciary? No, sir. From the Committee on Territories, in the nature of a resolution impeaching the President of the American Government for high crimes and misdemeanors. On the yea-and-nay vote I find the gentleman from Ohio voted "ay."

And I find further, sir, the counts upon which those impeachment articles were predicated, and I beg to call the attention of this committee to them. Mr. Ashley said:

I do impeach Andrew Johnson, Vice-President and acting President of the United States, of high crimes and misdemeanors.

I charge him with usurpation of power and violation of law—

And now come the five counts in the indictment, and I beg the careful attention of this committee, for I will bring it home to the very issue that the gentleman from Ohio has courted in this contest—

In that he has corruptly used the appointing power.

I put the gentleman on his candor and submit to him to say whether he ever intended to impeach the President for that? The country knows he did not. That appointing power had not been wielded in such a way as to merit the censure of the gentleman himself.

Secondly, in that he has corruptly used the pardoning power.

Did the gentleman from Ohio mean to impeach him for that? I will answer for him, no. Everybody knows he did not.

Thirdly, in that he has corruptly used the veto power.

And there was where the sting came in. It was the exercise of that constitutional prerogative, it was the employment of the veto power, for which the House and the gentleman from Ohio voted these articles of impeachment, coupled with one other offense only.

Fourthly, in that he has corruptly disposed of the public property of the United States.

That was a mere formal count in the indictment, and I doubt not that the gentleman from Ohio will admit it.

Fifthly, in that he has corruptly interfered—

In what?

In the elections and did acts which in contemplation of the Constitution are high crimes and misdemeanors.

There were but two counts in that indictment upon which it was proposed to impeach the Executive; it was the exercise of the veto power and it was his interference, not in elections, but his interference to prevent the interference of the armed power of this Government in the elections of this country. Was the denunciation still ringing in that gentleman's ears which the then President had employed in his interview with General Emory, denouncing as subversive of all the principles of free government the interference of the military with the right of suffrage at the polls?

But, Mr. Chairman, these counts in this indictment were voted on more than once. The gentleman from Ohio is recorded every time as voting in their favor. And may I be permitted to remind this committee that the record of that Congress shows that he was supported in his action, that he had standing by him, voting side by side with him to impeach the President for the legitimate exercise of the veto power, one who was then comparatively obscure and who but for a combination of accidents would have remained to this day and until his dying day in that obscurity for which nature and his Creator seemed so designedly to have fitted him—that side by side with the gentle-

man from Ohio stood and voted with him Mr. Rutherford B. Hayes, with whose prospective veto we are threatened. [Applause and laughter.] Now, sir, I beg you to tell me by what rule of consistency does the gentleman from Ohio come upon this floor to flaunt in the face of an American Congress an anticipated exercise by this Executive of his veto when he and that Executive both stand committed upon the record to his impeachment if he dares to employ it?

And while I am at this point I might ask by what sort of authority either that gentleman or any other comes upon this floor to threaten us with the probable or possible action of that Executive at all? What provision of the Federal Constitution, what law enacted by any preceding Congress undertakes to clothe anybody, either that President himself or one of his privy council, even including his premier, his Secretary of State, to sit as he did on the floor of this Chamber on Saturday of last week and by his presence and his indications of approval seek to intimidate, overawe, [cries of "Oh!" on the republican side,] and browbeat an American Congress? Who commissioned the gentleman from Ohio to tell us that we had best be careful because the issue was made and the Executive would not be coerced into a message of approval?

Mr. Chairman, I am advised that thirty minutes of the hour allowed me have expired and the remaining portion of my hour I am compelled by agreement to yield to my friend from Louisiana, [Mr. GIBSON.]

Mr. GARFIELD. I hope the gentleman will not be cut off.

Mr. HUNTON. I move the time of the gentleman be extended. [Cries of "Go on!" from both sides of the House.]

The CHAIRMAN. There is no objection, and the gentleman will proceed.

Mr. BLACKBURN. Then, Mr. Chairman, I thank the House for its kindness. I would ask, does the gentleman from Ohio, or does any other gentleman, put so low an estimate upon the self-respect, the integrity, the courage, and the manhood of this House, without regard to party, as to believe that such a threat so flaunted is to intimidate the law-making branch of this Government to shape its action on measures of legislation? I cannot think that we are measured by so short a standard.

But, sir, I am not through with the speech which the gentleman has made. He tells us:

The proposition now is, that after fourteen years have passed, and not one petition from one American citizen has come to us asking that this law be repealed; while not one memorial has found its way to our desks complaining of the law, so far as I have heard, the democratic House of Representatives now holds that if they are not permitted to force upon another House and upon the Executive against their consent the repeal of a law that democrats made, this refusal shall be considered a sufficient ground for starving this Government to death. That is the proposition which we denounce as revolution.

And that was received with applause on the republican side.

Does the gentleman from Ohio mean to stand upon that declaration? By that significant nod he says that he does. Does he not know that the Congress just expired bore upon its files petition after petition, memorial after memorial, in contested-election cases, sent by the House to its committee, protesting against the presence of the military at the polls and denouncing the usurpation, demanding its repeal, in order that a free ballot might be had? Does the gentleman fail to remember that the State of Louisiana, a sovereign State of this confederacy once more, thank God, sent her memorial to these Halls, in which in thunder tones she uttered her anathemas against the very practice which this amendment seeks to correct?

But that gentleman did more; he went further and, if possible, he did worse. I mean to deal in exact fairness. I even mean to be liberal in the construction I put upon his utterances.

Mr. Chairman, it is generally true that the grave suffices to silence the tongue of detraction. It is not often that its darkened portals are invaded to pronounce severe criticism, even though richly deserved, if it is to be pronounced upon the dead. But the gentleman from Ohio, forgetting himself in his speech on last Saturday, forgot also to observe this manly and magnanimous rule. By that speech he certainly must have sought, or, if not seeking, he was unfortunate in producing the impression that a distinguished dead Senator from the State of Kentucky had introduced into the Federal Senate Chamber the bill which we by this amendment seek to repeal, and to send his name down to posterity to be blasted by the act, if indeed he had performed it, and that charge to rest upon that gentleman's own high authority. I hold in my hand the very bill, No. 37, which was introduced upon the 5th of January, 1864, by Senator Powell, of Kentucky. There lies before me on my desk the manly, statesmanlike, and patriotic, bold utterances that he delivered in the shape of a speech upon the consideration of that bill. I challenge the gentleman to find within the limits of this measure a single, solitary provision, line, sentence, word, or syllable that this amendment seeks to repeal.

Does not the gentleman know—if he does not, it is his fault—that the amendment incorporated upon this bill which we now seek to repeal was incorporated and ingrafted upon it, not when the Senate was in Committee of the Whole but in open Senate, upon motion of Senator Pomeroy, and when the vote was taken upon that amendment by yeas and nays, every solitary democrat in that Chamber voted against it and put the seal of his condemnation upon it, Mr. Powell among the number? Here stands Senator Powell's utterance, in which he explains how and why it was that the democratic members in that body and this body at last accepted this as the best that could be

had; notwithstanding, against their protest, the ingrafting of the Pomeroy amendment, because it was to be taken in lieu of what they charged was true, of what the President of the United States in an official communication to Congress had declared to be true, that in the absence of even the limitations that amended bill would give, the military authorities and officers of the Government had arrogated to themselves the power in all the lately seceding States of declaring what should be the qualification of voters and what should be the qualification to hold office. It was as the least offensive of two offensive alternatives. It was not candid, it was not fair; the record rebukes the gentleman for seeking to place a dead statesman in such a false position.

But, Mr. Chairman, it is useless to follow these things further. It is not, sir, for me to waste the time and trench upon the patience of this committee by following out the tergiversations through which the republican party has wound itself to this high plane of protest against revolutionary legislation. Why, sir, the gentleman from Ohio, in 1872, made a speech upon this floor which he will not deny. It was, as is always the case with his efforts, an adroit as well as an able speech. In that he declared that the minority to which we then belonged, but in which in God's providence we are no longer found—he declared that the minority were guilty of revolution. For what? Because they insisted that extraneous matter should not be put upon appropriation bills. He said that was revolution. [Laughter and applause.] We took him at his word, and now where does he stand? It was revolution then to resist the injection of extraneous matter over the protest of the majority. It is revolution now for the majority to resist that same protest of that minority; but in the one case it was his side protesting, in the other case it was ours.

Ah, Mr. Chairman, let one take the darkened pages of his country's history for the last seventeen long years and read it carefully, and tell me then whether it lies in the mouth of that worthy leader of a once great but waning party to read lectures to anybody, either upon the score of revolutionary legislation or of extraneous introductions into appropriation bills. Better far in the face of the record that they have made, better to listen patiently to the confirmed inebriate as he dilates upon the virtues of temperance, better let the queen of the demi-monde elaborate the beauties of female virtue, or let the devil prate of the scheme of universal redemption, than for homilies upon good morals and lectures upon revolutionary legislation to be delivered from such a source. [Applause.]

There is but one issue here, and I insist that neither this House nor the people of this country shall be allowed to wander from it. It is but this, and nothing more: whether the military power shall be allowed at your polls; whether the elections shall be guarded by the mailed hand of military power; whether the ballot-box, that last and safest shield of the freeman's liberties, shall be turned over to the tender mercies of the armies of your land. Or to state it yet more tersely and probably more fairly, it is simply whether the spirit and the genius of this Government shall be reversed, and whether the civil shall be made subordinate to the military power.

Why, sir, among the most favored, the most cherished and precious principles ingrafted on our system of government from our old prototype, the English people, is that provision which would not tolerate not only the interference but the presence of the military at the polls. Over one hundred years ago an English statute declared the will of Englishmen upon this vital question. I read the statute:

Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords, spiritual and temporal, and Commons in Parliament assembled, and by the authority of the same, That when and as often as any election of any peer or peers to represent the peers of Scotland in Parliament, or any member or members to serve in Parliament, shall be appointed to be made, the secretary at war for the time being, or in case there shall be no secretary at war, then such person who shall officiate in the place of the secretary at war, shall, and is hereby required, at some convenient time before the day appointed for such election, to issue and send forth proper orders, in writing, for the removal of every such regiment, troop, or company, or other number of soldiers as shall be quartered or billeted in any such city, borough, town, or place where such election shall be appointed to be made, out of every such city, borough, town, or place, one day at the least before the day appointed for such election, to the distance of two or more miles from such city, borough, town, or place, as aforesaid, until one day at the least after the poll to be taken at such election shall be ended and the poll-books closed.—Statute George II.

From that time till now I do declare that it is not within the power of any man to find a single scion of the Saxon race that has not held in utter abhorrence the efforts of him or them who sought to control the freedom of the ballot by the employment of the military power. [Applause.]

The very Army of this country protests against such a prostitution of its service.

I see before me the justly distinguished General-in-Chief of our Army, and I do not believe that I overstate the fact when I say that from him down to the private in the ranks it is difficult to find one who has not recoiled from this service which they have been called upon to render. [Applause.]

It is this question, and it is none other, that I insist shall be kept before this House. We are declaring that the ballot shall be free. We are denying that it is either constitutional, legal, just, fair, or decent, to subject the sovereign to the surveillance of the soldier.

Now, upon that issue the gentleman from Ohio and his associates tell us that they stand committed. I answer so do we. We are willing to discuss it, and for my part I shall oppose any limitation being put upon this debate. If we cannot stand upon an issue so broad, so

constitutional, so catholic, so fair, so free as this, then tell me in Heaven's name where are there battlements strong enough for us to get behind? Let it go to the country that one party asserts that the manacles shall fall from the limbs of the citizen, and that the Army shall not hold its mailed hand at the throat of the sovereign, and that the other party refuses to release the throttling grasp, and declares that it will block the wheels of the government and bring it to starvation.

I am willing, and those with whom I stand are willing, to accept this issue, and we go further, we tender it. We are the ones to make the issue and we are ready for you to accept it. Planting ourselves upon this broad ground, we welcome controversy. We seek no quarrel with you, but for the first time in eighteen years past the democracy are back in power in both branches of this Legislature, and she proposes to signalize her return to power; she proposes to celebrate her recovery of her long-lost heritage by tearing off these degrading badges of servitude and destroying the machinery of a corrupt and partisan legislation.

We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book, which like these were born of the passions incident to civil strife and looked to the abridgement of the liberty of the citizen.

We demand an untrammelled election; no supervising of the ballot by the Army. Free, absolutely free right to the citizen in the deposit of his ballot as a condition precedent to the passage of your bills.

Now, sir, if the gentleman from Ohio is to be excused, for surely he cannot be justified, if he is to be excused for parading before this House the threat, the *argumentum in terrorem* of a veto that is already cut and dried to be placed upon a bill that is not yet passed; if he is to be pardoned for warning this House that the executive branch of this Government will never yield its assent to this measure in its present form, may I not be warranted and justified in employing equal candor, and may I not assure that gentleman and his associates that the dominant party of this Congress, the ruling element of this body, is also equally determined that until their just demands are satisfied, demands sanctioned by all laws human and divine, protected and hedged around by precedents without number, demanded by the people of this land without regard to section, who are clamoring for a free, untrammelled ballot (not for the South, I beg you to remember, for if there be sectionalism in this issue I cannot discover it; for Philadelphia as well as for New Orleans, for San Francisco and Boston as well as for Charleston and Savannah—that this side of the Chamber, which has demonstrated its power, never means to yield or surrender until this Congress shall have died by virtue of its limitation. [Applause on the democratic side.] We will not yield. A principle cannot be compromised. It may be surrendered; but that can only be done by its advocates giving proof to the world that they are cravens and cowards, lacking the courage of their own conviction. We cannot yield, and will not surrender.

Let me assure my friend, and it is a picture that I know he does not dwell upon with pleasure, that this is the restoration to power of a party as old as our Government itself, which for almost a hundred years has stood the boldest, fairest, freest exponent and champion and defender of the doctrine of constitutional limitations against the doctrine of the aggrandizement of power. It is this organization that has come back to rule, that means to rule, and means to rule in obedience to law.

Now, sir, the issue is laid down, the gage of battle is delivered. Lift it when you please; we are willing to appeal to that sovereign arbiter that the gentleman so handsomely lauded, the American people, to decide between us.

Standing upon such grounds, we intend to deny to the President of this Republic the right to exercise such unconstitutional power. We do not mean to pitch this contest upon ground of objection to him who happens, if not by the grace of God yet by the run of luck, to be administering that office.

I tell you here that if from yonder canvas [pointing to the picture of Washington] the first President of this Republic should step down and resume those powers that the grateful people of an infant republic conferred upon him as their first Chief Magistrate, if he were here fired by that patriotic ardor that moved him in the earlier and better days of this Republic, to him we would never consent to yield such dangerous and unwarranted powers, to rest the liberties of the citizen upon any one man's discretion, nor would he receive it.

It was not for the earlier but for the later Executives of this Government to grasp and seek to retain such questionable prerogatives. You cannot have it. The issue is made—it is made upon principle, not upon policy. It cannot be abandoned; it will not be surrendered. Standing upon such ground, clothed in such a panoply, resting this case upon the broadest principles of eternal justice, we are content to appeal to the people of this land. There is no tribunal to which we are not willing to carry this case of contest; and we are willing to allow Him who rules the destinies of men to judge between us and give victory to the right.

I do not mean to issue a threat. Unlike the gentleman from Ohio, I disclaim any authority to threaten. But I do mean to say that it is my deliberate conviction that there is not to be found in this majority a single man who will ever consent to abandon one jot or tittle of the faith that is in him. He cannot surrender if he would. I beg you to believe he will not be coerced by threats nor intimidated by

parade of power. He must stand upon his conviction and there we will all stand. He who dallies is a dastard, and he who doubts is damned. [Great applause on the democratic side.]

If I have any time left, Mr. Chairman, I will yield it to the gentleman from Louisiana, [Mr. GIBSON.] I would not have used all this time, but I understood I was indebted to the courtesy of my friend across the way, [Mr. GARFIELD,] who asked at the expiration of the thirty minutes that unanimous consent be given for the extension of my time. I understood that was not to affect the half hour which I intended to yield to my friend from Louisiana.

Mr. GARFIELD. That is right.

Mr. BLACKBURN. I yield now to the gentleman from Louisiana.

Mr. GIBSON, (at three o'clock and fifty minutes p. m.) In a few minutes the time will arrive when the House has ordered that a recess shall be taken.

The CHAIRMAN. The time for a recess has been fixed at half past four o'clock.

Mr. SPARKS. And that is nearly an hour from now.

Mr. GIBSON. Mr. Chairman, the gentleman from Ohio [Mr. GARFIELD] brought to the attention of this House the various means by which the framework of our Government might be dissolved on what he called "the voluntary principle," borrowing the phrase from the distinguished writer, Mr. Bagehot, whose work on the English constitution is one of the ablest disquisitions both upon the British and American governments that has recently appeared. We were informed that without striking a blow the States of the Union by refusing to elect Senators could destroy the Senate and thus suspend all constitutional functions; that the people of the country by declining to elect Representatives to this House might remove the very foundation of the structure; and that even a majority of this House, by adjourning from day to day and failing to vote the necessary supplies for the maintenance of the Government, might thus take away the vital principle indispensable to its operations.

The gentleman pictured to us the Government melting away and disappearing from the face of the earth by the voluntary inaction of unwilling and unpatriotic States; of the people lost to all sense of self-interest or patriotism; and of majorities of their Representatives violating their oaths to support the Constitution. But there was one process by which the Government may be destroyed which escaped the ingenuity of the gentleman. He could see very well how it might be starved to death by majorities both of the people and of their Representatives, but he failed to tell us how it might also be starved to death by a partisan minority of the Representatives combining with an unpatriotic, weak, or unwilling Executive to refuse supplies even though voted without conditions by a majority of only less than two-thirds in both branches of Congress. Is it more likely that this Government shall perish at the hands of the people, or of a majority of their Representatives in this and in the other House than by disappointed minorities in league with the Executive?

Have majorities become so dangerous? If the States and the people and their representatives in the Government cannot be trusted, who shall be? *Quis custodiet custodes?* The fact is, Mr. Chairman, our governmental organization, like all others, rests upon the voluntary principle. The Constitution is not self-operative; it merely divides, enumerates, and limits the power confided to the three branches of the Federal Government. It ordains and establishes, not a mere speculative system, but a government, and the representatives of the people in every department of it are expected, not only to govern the people in conformity with the Constitution, but to govern themselves. Members of Congress, the Supreme Court, the Executive, each and all, are sworn to support and defend the Constitution.

No one can deny that the power rests with the President to accept or to reject supplies. Nor can any one deny that the lower House may vote or decline to vote supplies. The real question is whether the President is justifiable in exercising the veto power against the pending bill and thus creating an antagonism between the executive and the legislative departments of the Government. We cannot afford to discuss this question as one of mechanics and attempt to solve it by merely measuring the strength of the opposing forces. Conceding the power to both, it would be like discussing the question as to what would be the result if an irresistible force came in contact with an immovable body. The question is one of duty, of statesmanship, and it should be determined by the Constitution, by the precedents and practice of the Government, by consulting the fathers of the Constitution and the learned commentators upon that instrument. I ask, then, is the President justifiable in refusing the supplies now tendered him by the Congress of the United States?

The gentleman from Ohio and most of his associates admit that they would be in favor of both the bill for the supplies and the amendment prohibiting the use of troops at the polls if they were severed and offered as independent measures. But they suggest and invoke the Executive veto, not that either measure is objectionable, but upon the ground that the methods adopted by this House are unconstitutional, that the amendment striking out the provision for troops to keep peace at the polls is not germane nor in the direction of retrenchment of expenditures. They contend that because we have determined to couple this amendment with the appropriation bill it is an attempt to coerce the minority and the President. The gentleman from Ohio says:

We are ready to pass these bills for the support of the Government at any hour

when you will offer them in the ordinary way by the methods prescribed by the Constitution. If you offer those other propositions of legislation as separate measures we may meet you in the fraternal spirit of fair debate and will discuss their merits. Some of your measures many of us will vote for in separate bills, but you shall not coerce any independent branch of the Government, even by the threat of starvation, to consent to surrender its voluntary powers until the question has been appealed to the sovereign and decided in your favor. On this ground we plant ourselves, and here we will stand to the end.

The distinguished gentleman knows full well that his side of the House, being a minority, can offer no lawful or successful resistance to these measures even in their present form. Upon what ground, then, does he plant himself when he insists that we shall not coerce an independent branch of the Government? He evidently is speaking of the executive department of the Government, for the only barrier behind which the minority in this House may intrench itself against the legitimate will of the majority is the veto power of the President.

The gentleman's speech is an adroit and passionate appeal to the Chief Executive to join the minority in their opposition to this measure, to communicate to him the passions which excite them, and to reject the supplies contained in the bill, and thus to bring about a crisis in the Government. I recur then, sir, to the main question, Would the President be justifiable? In the first place, I lay down the proposition that, while it is perfectly proper for the gentlemen who compose the minority of this House to resist this legislation with all the power that the Constitution and rules of this House give them, that the President of the United States can find no authority or justification for vetoing this bill upon the ground that the proceedings of this or the other House of Congress were unconstitutional; that they had no right to "tack to" an appropriation bill the amendment forbidding the use of troops at the polls. The powers of the Executive are enumerated and defined in the Constitution. He possesses no implied powers. He does possess the veto power, but by the express provisions of section 7 of the Constitution it is conferred upon him over every bill, order, or resolution or vote only to which the concurrence of the Senate and House of Representatives may be necessary, except on a question of adjournment. But section 5 of the Constitution provides that "each House may determine the rules of its proceedings."

Hence it is clear that as to every resolution, order, or vote to which the concurrence of the Senate is not necessary the veto of the President may not be exercised.

Now we may well ask why was it that the Constitution limited the power of the veto to such bills, orders, and resolutions as required the concurrence of both Houses of Congress? Why did it not extend to orders and resolutions and votes of the separate bodies? Evidently it was to protect the independence of these bodies as separate branches of the Government, to prevent the Executive from interfering with their proceedings or to have any control over them. Hence we find that the Constitution has not only limited the veto to cases requiring the concurrent votes of the two Houses, but has expressly vested each House with the power of establishing its own rules of proceeding according to its will and pleasure, without limitation or check. The Executive cannot question these proceedings. The gentleman cannot show a single clause of the Constitution which gives him such authority, either directly or by implication.

The framers of the Constitution departed from the model from which our institutions are drawn in that they denied the ministers of the President any participation in the proceedings of this House. And although in common parlance it is said that the veto power itself is legislative in its character, yet that character is limited and qualified by the Constitution. It cannot enter here, it cannot amend, it cannot vote on any proposition pending before this body. But for these guarantees the executive department of the Government would practically override all the safeguards for the free action of this House, and we should indeed cease to be independent legislators or worthy Representatives of a free people. Story on the Constitution says:

No person can doubt the propriety of the provision authorizing each House to determine the rule of its own proceedings. If the power did not exist it would be utterly impracticable to transact the business of the nation either at all or, at least, with decency, deliberation, and order.

These guarantees for the independence and integrity of this House were not invented by the framers of the Constitution but were drawn from the institutions of that stormy isle which for more than two hundred years has given shelter to the freedom of law, when it was driven from every other land, in the forms and sturdy independence of her Parliament.

In May on Parliamentary Practice, page 61, the learned commentator says:

At the commencement of every Parliament since the sixth of Henry VIII, it has been the custom for the speaker—

In the name and on behalf of the Commons to lay claim, by humble petition, to their ancient and undoubted rights and privileges; particularly that their persons and servants might be free from arrest and all molestations; that they may enjoy liberty of speech in all their debates; may have access to her majesty's royal person whenever occasion shall require; and that all their proceedings may receive from her majesty the most favorable consideration.

To which the lord chancellor replies:

Her majesty most readily confirms all the rights and privileges which have ever been granted to or conferred upon the Commons by her majesty or any of her royal predecessors.

But the author adds:

But whatever may have been the origin and cause of this custom, and however

great the concession in the Crown may appear, the privileges of the Commons are nevertheless independent of the Crown and are enjoyed irrespective of their petition.

The occasions for this courtesy are also limited; as by law and custom of Parliament the queen cannot take notice of anything said or done in the house, but by the report of the house itself.

Each house as a constituent part of Parliament exercises its own privileges independently of the other.

The law of Parliament is thus defined by two eminent authorities. As every court of justice hath laws and customs for its direction, some the civil and canon, some the common law, others their own peculiar laws and customs, so the high court of Parliament hath also its own peculiar law called the *lex et consuetudo parliamenti*. This law of Parliament is admitted to be part of the unwritten law of the land, and as such is only to be collected according to the words of Sir Edward Coke, "out of the rolls of Parliament and other records, and by precedents and continued experience;" to which it is added, that whatever matter arises concerning either house of Parliament ought to be discussed and adjudged in that house to which it relates, and not elsewhere.

No one will deny, therefore, that the rules of procedure of this House are and must be entirely independent of executive interference. It will be admitted that the pending bill has been fully discussed according to the parliamentary methods long since established for our guidance, and that it is being carried through this House in accordance with its ancient forms. True it is that the minority of this House contend that the amendment "tacked on" the bill is violative of the rules; but the majority possess the constitutional right and power to interpret the rules; and on appeal from the decision of the Chair, on a ye-a-and-may vote, this amendment has been held to be clearly in accord with Rule 120, allowing amendments to bills which, "being germane to the subject-matter, shall retrench expenditures." This decision by a majority of the House is an end of the question; otherwise we admit that the minority must control.

Now, can it possibly be contended that the minority can appeal to the President of the United States on a question concerning the proceedings of this House, and invoke the exercise of the veto power against a bill of supplies upon the ground that these proceedings are irregular or vicious? If it be so, then, indeed, instead of a majority of this House electing its Speaker and determining the rules of its proceedings, the President might at once designate the Speaker of the House and his Cabinet provide rules and regulations for our government. I am not arguing now, I wish it to be distinctly understood, against the power of the President to veto any measure upon the ground of its unconstitutionality or of its invading the prerogatives of the Executive, or of its being against the well-being of the Republic, or, in other words, upon its merits. But I contend that it would be an unconstitutional exercise of the veto power for him to rest it upon the proposition that the methods of legislation which we have adopted were objectionable to him, or in his judgment in defiance of the parliamentary precedents and rules. While the Senate may not originate revenue or money bills, yet it "may propose or concur with amendments as on other bills." They not only have the constitutional right to adopt their own rules of procedure, but they have the constitutional power to accept, to amend, or to reject revenue bills, in the expressed language of the Constitution itself. They might determine when this amendment comes before them that it was not germane, that it was not appropriate to the supply bill, because they possess these legislative functions; but the President of the United States cannot, without an unwarranted invasion of the rights and privileges of this House, take notice of its proceedings and plant his veto upon any bill emanating from it upon the ground that the proceedings by which it was adopted were irregular or unconstitutional. That is a matter for the legislative department of the Government to determine.

The House of Lords, possessing legislative power, passed an act on December 9, 1702, declaring "that the annexing of any clause or clauses to a bill of aid or supply, the matter of which is foreign to and different from the matter of the said bill of aid or supply, is unconstitutional and tends to the destruction of the constitution of its government." The question then arises, who is to determine when the matter is foreign and different from the matter of the said supply bill? In the lower House it is the majority of its members; in the Senate a majority of the Senate. And so in the English Parliament it is a majority of the lower house, and in the House of Lords a majority of the peers. But has it been contended within the last two centuries that the sovereign of Great Britain might veto a bill which came to him offering supplies by the concurring voices of both houses of Parliament upon the ground that there were certain amendments to the supply bill which in his judgment were "foreign" and therefore unconstitutional? No such instance can be cited from the history of Great Britain or from the history of our own country. The veto power in our own country, whenever exercised, has been independent of the rules of proceedings of the Houses, and upon the ground that it was necessary either to protect the Constitution, the general welfare of the people, or the prerogatives of the Executive itself. Therefore it is, Mr. Chairman, that I go so far as to claim that if the gentleman himself were in the presidential chair, with his speech in his hand, he would be constrained to accept the supplies tendered by this bill; for as the Executive, his eyes would be closed as to the methods which had been adopted by this House, and the only question before him would be whether on the merits the bill was acceptable or not. The honorable gentleman has declared that he was in favor of the bill and will vote cheerfully for it upon its merits.

Let us see how a veto message upon the grounds held by the gentleman from Ohio would read.

Gentlemen of the House of Representatives:

I return to your honorable body with my objections the bill of supplies for the Army.

I would cheerfully approve both the bill and the amendment prohibiting the employment of the Army at the polls if they came before me as separate measures.

I concur with the Congress that the Army should not be stationed at the voting precincts of the people, and that the executive branch of the Government should exercise no power whatever over elections for the lower House of Congress. While I would resist any encroachment upon executive prerogatives by Congress I deem it equally important that the Executive should abstain from all interference with the elections, returns, and qualifications of members of the lower House. But I feel constrained to interpose my veto, because the rule you have adopted allowing such an amendment to be tacked to an Army appropriation bill is, in my judgment, irregular and unconstitutional.

It is better that the Army should remain without supplies, or even that all governmental functions should cease, than that the executive branch of the Government should permit such rules of proceedings to be adopted and enforced by either House of Congress.

I have the honor to suggest that you alter the rules of your proceedings to conform to the views herein expressed. In that event both the bill and the amendment, coming before me as independent measures, will meet my approval.

Respectfully,

R. B. HAYES,
President.

J. A. GARFIELD,
Secretary of State.

I admit that the President would have the right to veto a bill which he regarded as unconstitutional, or as hostile to the interests of the country, or as hasty and injudicious, though it be passed without a call for the ayes and noes in either House of Congress and no question had been raised with regard to their proceedings. But I deny his power under the Constitution to veto any bill solely and exclusively because in his judgment the methods adopted in its passage were objectionable. To do this, is to make him the judge, the deputy marshal, the supervisor of our proceedings. To do this is to sweep away all those barriers erected by the Constitution for the purpose of protecting one branch of the Government from encroachments by another. Mr. Madison, the father of the Constitution, has well said in illustration of the maxims of Montesquieu, laid down with so much force in his observations upon the British constitution, which he regarded as the mirror of liberty itself, that "the accumulation of all powers, legislative, executive, and judicial, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elected, may justly be pronounced the very definition of tyranny."

Not only did the framers of the Federal Constitution take care to provide against this union of all power in single hands, but the constitutions of every State in this Union have, with jealous care, made similar provisions; especially in the constitution of the ancient Commonwealth of Massachusetts it is declared—

In the government of this Commonwealth the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and judicial powers, or either of them; to the end it may be a government of laws, and not of men.

Declarations of a similar character are to be found in other State constitutions. Once admit, however, that the Executive may determine the methods of proceedings in this House, and it will become rather a chamber to register his edicts than an assembly of the independent representatives of a free people.

In the second place, the President ought not to veto the bill because the legislation sought to be repealed by it violates not only the express provisions of the Constitution but the fundamental rights of freemen.

The distinguished gentleman from Ohio [Mr. HURD] has relieved me from the necessity of making any extended remarks in defense of this position. This legislation authorizing the Executive to keep troops at the polls during all our history found no place in our statutes until the passions of the civil war reached their climax. It has found no place in the laws of Great Britain since it was supplanted by the statute of George II. It is an alien to British and American soil, a stranger in our midst, an exotic that cannot live in the atmosphere of these free institutions; it is the offspring of war, the application of military methods to free institutions, and it attempts to preserve liberty by bayonets upon the theory that the people are incapable of self-government. The Constitution provides, in article 1, section 2:

The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

This leaves it to the States to determine absolutely who shall vote for members of Congress. The States establish the qualifications; the States confer the right of suffrage; for it is not a natural right, but a civil right granted and regulated by law.

In 2 Otto, 555, from which I quote, the Supreme Court hold:

In *Minor vs. Happersett*, 21 Wall., 178, we decided that the Constitution of the United States has not conferred the right of suffrage upon any one, and that the United States have no voters of their own creation in the States. In *United States vs. Reese et al.*, *supra*, page 214, we hold that the fifteenth amendment has invested the citizens of the United States with the new constitutional right, which is exemption from discrimination in the exercise of the elective franchise on account of race, color or previous condition of servitude. From this it appears that the right of suffrage is not a necessary attribute of national citizenship; but that exemption from discrimination in the exercise of that right on account of race, etc., is. The right to vote in the States comes from the States; but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States, but the last has been.

It is with reference merely, then, to the exemption from discrimi-

nation that the Supreme Court of the United States has determined that the Federal Government has conferred any right.

It has been held by the opponents of this bill that the power to intervene or to control elections is found in section 4 of the Constitution, which reads as follows:

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

It is pretended that under this provision of the Constitution the legislation may be defended which provides that the Executive of the United States may order troops to the polls, may authorize the appointment by his marshal of countless deputy marshals and supervisors, who shall swarm at the voting places with power to arrest without warrant and to determine the qualifications of the voters and to count the votes. It is indeed a narrow foundation for such an imposing structure; it invades the rights of citizens, because the citizen is under the law exempt from arrest without a warrant, except for felony or breach of the peace; but here he may be arrested upon a suspicion of not being a qualified voter or of an attempt to violate the law. He may after such arrest and incarceration be set free, but he will have lost his vote by the arbitrary act of one man, and of this there can be no redress. This constitutional provision, according to the authors of the Constitution itself, was not intended to invade the States with this more than regal power, but merely in the event if the States themselves made no provision for elections there might be means adopted by which Representatives should be elected to this House. Alexander Hamilton says, in the fifty-ninth number of the *Federalist*:

Its propriety rests upon the evidence of this plain proposition, that every government ought to contain in itself means of its own preservation.

He says, moreover:

Suppose an article had been introduced into the Constitution empowering the United States to regulate elections for the particular States, would any man have hesitated to condemn it both as an unwarrantable transposition of power and as a premeditated engine for the destruction of State governments?

And yet, this is what this legislation does in effect. Congress possesses the same power over the times and manner of holding elections for Senators as for Representatives, and if section 4 of the Constitution justifies the keeping of troops and the appointment of deputy marshals and supervisors, with the power of arrest at the voting places of the people, upon precisely the same grant and the same reasoning the Army may be stationed in the legislative chambers of the States with deputy marshals and supervisors to keep the peace and oversee the election of Senators.

It must be clear, then, that this legislation which interferes in such a flagrant manner with the electors of the States, which, going beyond the manner, or places, or method in which the elections are conducted, clothes Federal officers with the unheard-of power to incarcerate free men at the polling places on suspicion, not only at Federal elections but at elections of State officers, is without warrant in the Constitution. The Constitution provides, section 4:

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive (when the Legislature cannot be convened,) against domestic violence.

This is the only provision in the Constitution providing a way by which the Federal Army may enter a State for the purpose of enforcing the State laws, and in this case it is to aid in the suppression of domestic violence. But the violence must have occurred; the fact of its existence must be certified to the President, and he can then only proceed in the manner laid down by law. It is not in his capacity as Commander-in-Chief of the Army that such aid is given, for it will be remarked that the provision recites not that the President shall perform this duty, but the United States. The Constitution having pointed out the particular manner in which the Army may be used in State affairs, it results necessarily that its use in any other manner and under any other than the given circumstances is prohibited. I do not mean to deny that the Federal Government may execute its own laws and enforce the decrees of the Federal courts through its marshals and appropriate officers, and that in the event of a resistance so great to its processes that the civil authorities may not be able to overcome it, that then and in such cases the Army itself may be used as is provided by statute.

I would be reluctant to vote for new legislation upon an appropriation bill or for a repeal of existing law, but the whole history of legislation, both in the mother country and in this, shows that the controlling theory is that the standing army actually ceases to exist at the expiration of every appropriation for its support.

By passing the annual mutiny act, says May:

In this power the House of Commons have reserved to themselves the power of determining not only the number of men and the sums which shall be appropriated in each year to their support, but whether there shall be any standing army at all. Without their sanction, the maintenance of a standing army in time of peace would be illegal.

Our forefathers provided in the Constitution that there should be no appropriation for the standing Army extending over a period greater than two years, and lodged the power to originate all supply bills in this House—the lower House. Why not in the Executive, or in the Senate, or in the Congress? The power to originate implies the power to withhold, or at all events a greater power over the question than

the other branches of the Government possess. These free institutions were intended to repose upon the consent and affections of the people and to find their best security in dispensing justice to the governed. Every line in the Constitution, every speech in the convention, every opinion of the fathers shows a jealousy of military power and the unflinching purpose of subordinating it completely to the civil authority. And until these acts now sought to be repealed were put there, after the civil war, the records of Congress were not marred by statutes providing for the use of the Army and the executive power at the elections for members of this body, which should above all be free from military interference both in its proceedings and in the sources of its power. For the reason, therefore, that this is not new legislation but is a return to the old-fashioned ways, I earnestly support the bill, and when this measure shall have been submitted to the Senate and meets the approval of that body, after full consideration, both Houses concurring, it seems impossible to believe the Executive would interpose his veto.

I have not thought proper in these remarks to discuss the law relating to test oaths, because it has already been repealed and is upon the statute by a mistake of the codifier.

I have heard no one advocate this discriminating and unconstitutional disqualification, so fatal to the administration of justice in the Southern States, since I have been upon this floor.

There is no part of the country which has suffered from the evils of military interference and military violence and outrages so greatly as the people of the State which I in part represent. I should feel that I did not do justice to the innocent men and good citizens who have been dragged from their homes and conveyed hundreds of miles on false charges, by partisan deputy marshals and partisan supervisors, to be tried and acquitted, there being no evidence to sustain the charges on which they were arrested, if I did not utter my protest against such assaults upon liberty. Hundreds of men have had their homes broken up and their business destroyed, and society has been convulsed by the efforts of unscrupulous partisans acting as supervisors and deputy marshals. The effect of such partisan prosecutions, backed by the authorities of the Federal Government, is to destroy the influence of men of law and order, to excite strife, to set neighbor against neighbor and race against race. These are the appropriate instruments of partisan tyranny, and work out their legitimate results in disorder and confusion. When repealed, society will repose more and more upon its natural forces; intelligence, property, and character, always the allies of peace, will secure justice to all. They have given hostages for the enforcement of the laws.

In the third place the President should abstain from vetoing these supply bills for the Government because the legislation sought to be repealed relates to elections for members of the lower House of Congress, a matter peculiarly concerning this House; and, in the language of Sir Edward Coke, "ought to be discussed and adjudged in that House and not elsewhere." If it be an invasion of the rights and privileges of the House for the Executive to question the rules of its proceedings, it would seem to be equally unwarranted for the executive department to interfere in the elections—to control the vital forces that go to make up the House of Representatives. It is a spectacle at variance with our conceptions of a constitutional republic to see the power in the hands of the Executive, which enables him to place a line of deputy marshals, supervisors, and soldiery between the Representatives of the people and the people themselves at their polling places. An unscrupulous executive inspired by partisan passion might poison with his individual will and aspirations the fountains of freedom that under our institutions should flow free and uncontaminated.

There is not a single clause or provision in the Constitution of the United States which confers any power or imposes any duty upon the President in reference to elections. If there was one thing which the framers of the Constitution clearly foresaw and provided against it was the interference of the Executive in the elections of the people. If they had conferred any power upon him over the elections for the members of this House it would at once have destroyed its independence and freedom. So far from that they expressly provided, in order that there might be no question about the matter, (section 5 of the Constitution,) that "each House shall be the judge of the elections, returns, and qualifications of its own members."

The lower House of Congress is the judge—not the Senate, not the President, not the Congress, but the lower House of Congress—not only of the returns and qualifications, but of the elections of its own members. The subject-matter of elections for this House is placed within the keeping of this House, and thereby excluded from the interference or supervision of the Executive or of the Senate. Under the Constitution the States may determine the qualifications for the voters for members of Congress, but the lower House must determine the qualifications of the members-elect. There is an implied, if not expressed, exclusion by these provisions of the executive department of the Government from having anything to do with the qualifications of the electors who shall vote for members of Congress or with the elections or qualifications of the members elected—in fact with the subject-matter of elections. So far from this the contrary is the case.

In a certain contingency the Constitution provides that this House may elect the President, but in no case whatever is there any provision under which he may in any manner concern himself with reference to the elections, returns, or qualifications either of the electors

or of the members of this House. It is true that by section 4 "Congress may at any time by law make or alter the regulations relative to the times, places, and manner of holding elections for Senators and Representatives," but there has been from the foundation of the Government a concurrence of opinion among all enlightened statesmen that this power was to be exercised only in the event that it became necessary to secure the existence of the two Houses when the States failed to act. While the executive department has been made free from undue interference by Congress every precaution has been taken by the absolute grant of all the implied powers to Congress, in addition to special powers, to secure the independence of this House, upon which the whole fabric of our liberties reposes as this noble Capitol upon its granite foundation. They had inherited these principles of liberty, of parliamentary liberty, the liberty to be preserved and maintained not by executive power, not by the representatives of States as independent communities, but by the Representatives of the people themselves giving expression to their free voices in the making of the laws.

It has ever been held by English-speaking people that the presence of troops at the polls annulled an election. The two things are as antagonistic, the bayonet and the ballot, as fire and water; they cannot coexist. These views find the completest expression in chapter 2, page 178, in Blackstone, with regard to the proceedings at elections:

And, as it is essential to the very being of Parliament that elections should be absolutely free, therefore all undue influences upon the electors are illegal and strongly prohibited; for Mr. Locke ranks it among those breaches of trust in the executive magistrate which, according to his notions, amount to a dissolution of the government, "if he employs the force, treasure, and offices of the society, to corrupt the representatives, or openly to pre-engage the electors, and prescribe what manner of person shall be chosen. For, thus to regulate candidates and electors, and new-model the ways of election, what is it," says he, "but to cut up the government by the roots and poison the very fountain of public security?" As soon, therefore, as the time and place of election, either in counties or boroughs, are fixed, all soldiers quartered in the place are to remove, at least one day before the election, to the distance of two miles or more, and not to return till one day after the poll is ended. Riots likewise have been frequently determined to make an election void. By vote also of the House of Commons, to whom alone belongs the power of determining contested elections, no lord of Parliament, or lord-lieutenant of a county, hath any right to interfere in the election of commons; and by statute, the lord warden of the cinque ports shall not recommend any members there. If any officer of excise, customs, stamps, or certain other branches of the revenue, presume to intermeddle in elections, by persuading any voter or dissuading him, he forfeits £100 and is disabled to hold any office.

Thus are the electors of one branch of the legislature secured from any undue influence from either of the other two, and from all external violence and compulsion.

Dr. Lieber, in his work on civil liberty and self-government, edited by that profound scholar and accomplished gentleman, Theodore D. Woolsey, in speaking of elections, says:

It is especially necessary that the army be in abeyance, as it were, with reference to all subjects and movements appertaining to the question at issue. The English law requires the removal of the garrison from every place where a common election for Parliament is going on. Much more necessary is the total neutrality of the army in an election of the sort of which we now treat.

Armies at the elections! There may be polling places, there may be men voting, but there can be no election, no free choice.

I admit that the President in certain cases possesses the veto power; it is conferred upon him by the Constitution, but it is for him to determine when he may employ it; and surely if there can ever arise a matter with regard to which he should abstain from its exercise, it is in relation to the elections for members of the lower House of Congress. Many of our most sagacious statesmen regarded such a power as inconsistent with the whole theory of our Government. Mr. Clay, on a notable occasion, January 24, 1842, proposed an amendment to the Constitution limiting the veto power of the President. He said, in his great speech on that occasion:

To give to the Executive any agency in the ascertainment and expression of the will of the nation was so far a violation of the great leading principle. But it was said that the framers of our Constitution had nevertheless been induced to place the veto upon the list of the executive powers by two considerations. The first was a desire to protect the executive against the power of the legislative branch, and the other was a prudent wish to guard the country against the injurious effects of crude and hasty legislation. But where was the necessity to protect the executive against the legislative department? Were not both bound by their solemn oaths to support the Constitution? The judiciary had no veto. If the argument was a sound one, why was not the same protection extended to the judiciary also? Was there not ample security against the encroachments of the legislative power in the absence of the veto? First, there was the solemn oath of office; then there was the authority of the judiciary; then there was the responsibility of individual members to the people, and this responsibility continually kept up by a frequent appeal to the people; and lastly, there was the ultimate conflict of the President and the Legislature before the grand tribunal of the nation itself in case of any attempt by the Legislature to deprive him of the rightful exercise of his authority.

The officer of the Government in whose hands the Constitution places a power so formidable was supposed in theory to remain profoundly silent as to the passage of great measures of public policy until they were presented to him in a finished form and for his approbation and sanction.

These were the matured opinions of one of the noblest men, the most exalted patriots, that ever consecrated his life to the liberty and honor of the American people.

Not less apprehensive of the executive power was the great expounder of the Constitution, Daniel Webster. He says:

Our security is in our watchfulness of executive power. It was the constitution of this department which was infinitely the most difficult part in the great work of creating our present Government. To give to the executive department such power as should make it useful, and yet not such as should render it dangerous; to make it efficient, independent, and strong, and yet to prevent it from sweeping away everything by its union of military and civil authority by the influence of patronage, and office, and favor—this, indeed, was difficult. They who had the

work to do saw the difficulty, and we see it; and if we would maintain our system we shall act wisely to that end by preserving every restraint and every guard which the Constitution has provided, and when we and those who come after us have done all that we can do and all that they can do, it will be well for us and for them if some popular Executive, by the power of patronage and party, and the power, too, of that very popularity, shall not hereafter prove an overmatch for all other branches of the Government.

I do not wish, sir, to impair the power of the President, as it stands written down in the Constitution, and as great and good men have hitherto exercised it. In this as in other respects, I am for the Constitution as it is. But I will not acquiesce in the reversal of all just ideas of Government; I will not degrade the character of popular representation; I will not blindly confide, where all experience admonishes me to be jealous; I will not trust executive power, vested in the hands of a single magistrate, to be the guardian of liberty.

Alexander Hamilton, in No. 73 of the Federalist, speaking of the veto power lodged with the Executive, says:

Nor is this all. The superior weight and influence of the legislative body in a free government, and the hazard to the executive in a trial of strength with that body, afford a satisfactory security that the negative would generally be employed with great caution; and that in its exercise there would often be room for a charge of timidity than of rashness. A king of Great Britain with all his train of sovereign attributes, and with all the influence he draws from a thousand sources, would at this day hesitate to put a negative upon the joint resolutions of the two houses of Parliament. He would not fail to exert the utmost resources of that influence to strangle a measure disagreeable to him, in its progress to the throne, to avoid being reduced to the dilemma of permitting it to take effect, or of resisting the displeasure of the nation by an opposition to the sense of the legislative body. Nor is it probable that he would ultimately venture to exert his prerogative but in a case of manifest propriety or extreme necessity. All well-informed men in that kingdom will accede to the justness of this remark. A very considerable period has elapsed since the negative of the Crown has been exercised.

If a magistrate so powerful and so well fortified as a British monarch would have scruples about the exercise of the power under consideration, how much greater caution may be reasonably expected in a President of the United States, clothed, for the short period of four years, with the executive authority of a Government wholly and purely republican!

If, then, it be true that this power was conferred upon the Executive to prevent encroachments upon that branch of the Government or to defend the Constitution, surely if there could ever arise a case in which it should not be employed it would be in the attempt to overthrow the concurrent majorities of both bodies of Congress with regard to a matter concerning in a peculiar manner the popular branch of the Government—the elections by the people for the Lower House. Can the President justify himself before the country in thus setting up his single judgment and attempting to override the lawful majorities of both Houses of Congress with regard to a matter that in no way touches his prerogatives but that is committed by the Constitution to the States and to the Lower House of Congress—a matter about which this House is to be the judge—the elections, returns, and qualifications of its own members.

When we attempt to discover in the records of the past the sources from which our constitutional liberties, our free institutions were derived, we turn instinctively not to kings, nor their cabinets, nor their privy councils, but to those great parliamentary leaders who in every age, with sturdy independence, have resisted the encroachments of executive power and have wrung from monarchs the rights and privileges which we enjoy.

A House of Representatives independent and uncontrolled save by the Constitution which ordained it should be dear to every American heart. It should represent the free choice of the people with no taint of extraneous force upon it. It should be free from fear or favor in its origin at the ballot-box, free in its meeting, free in its speech, free in its demand for the redress of grievances, free in prosecuting offenders, and both fearless and free in its defense of the liberty and property of the citizen and in its resistance to the encroachments of executive power and patronage.

Mr. OSCAR TURNER. Mr. Chairman, this is substantially a bill passed by the House of Representatives a few days before the adjournment of the Forty-fifth Congress, and was defeated by the republicans in the Senate. As to the items of appropriations and the amounts, I presume they are correct, as the bill went through the ordinary scrutiny of the committee and the items have been agreed to not only by the last Congress but by this in Committee of the Whole on the state of the Union. I shall therefore vote for the bill, although I do not approve of the amount appropriated, and only vote for it on account of the peculiar circumstances surrounding the bill, as I am a new member of this body and am compelled to rely upon the judgment of others. I believe the Army ought to be still further reduced in numbers, and consequently the expenditures sustaining it ought to be largely reduced, which I believe will be done at the next regular session, and shall not regard this bill as any precedent hereafter.

Mr. Chairman, I come now to the discussion of the sixth section of this bill, which is as follows:

SEC. 6. That section 2002 of the Revised Statutes be amended so as to read as follows:

"No military or naval officer or other person engaged in the civil, military, or naval service of the United States shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States."

And that section 5323 of the Revised Statutes be amended so as to read as follows:

"Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than \$5,000, and suffer imprisonment at hard labor not less than three months nor more than five years."

The adoption of this sixth section, so eminently proper in any republican government, is resisted by the republican members of this body. It is a matter of surprise to me that any man who loves constitutional liberty should oppose it, no matter what his politics are, whether he is a democrat or a republican; and yet we have been detained here in consideration of this section for four days, and speech after speech has been made against the adoption of this section of the bill by the republican members of this House. We have been informed by them that they as a body intended to resist its adoption by every possible means known to parliamentary law. We have been told it would bring on revolution; that it meant destruction of the Government; that the President would veto it; that it interfered with his power as commander of the Army under the Constitution, and all that. Now, sir, let us pause and look at the question in its true light, laying aside party prejudice. Will any man say that it is not right? Ought it not to be the law of the land? Is it right for any military or naval officer, or any other person in the civil, military, or naval service of the United States, to bring troops to any place where any election is being held unless it be to repel the armed enemies of the United States? There is no man in this republican Government who dares to answer this question in any way except in the negative. No man has yet, in this debate, had the bold effrontery to say it is right for the officers of the Federal Government to have armed soldiers at the voting places in a time of profound peace. Why, sir, as has been repeatedly said, even in monarchical England it would not be tolerated, and is forbidden by law. In England armed soldiers are prohibited from going to the voting places on election day by act of Parliament, and no English officer would dare order it, not even the highest officials.

And are we, sir, to be told that here in free America, boasting of our love of liberty and free institutions, armed soldiers should go to the polls in the absence of armed enemies of the United States? No man on this floor has dared say so, not even the bold member from Ohio, [Mr. GARFIELD,] who informed us on Saturday that he voted against the act of 1863 prohibiting the presence of armed soldiers at the polls. Even he said he would not discuss the merits of this question, but would vote against this section. They dare not "face the music" and say it is right to have armed soldiers at the elections when there is no armed enemy there. Yet, sir, their opposition to this section means that, and nothing else. It is useless for gentlemen to disguise their opposition; the people will look at it in its true light, and they need not try to put their opposition on different ground. Is there a necessity for this law? The past history of the country shows that there is a necessity for it. There is no fact better established than that armed men have been under radical rule ordered to the voting places, not only in the Southern States, but in Kentucky. Numbers of Representatives upon this floor have seen it. They have seen white men driven from the polls and intimidated, while carpet-baggers from other States have marched up the negroes and voted them as they pleased to maintain their party in power. But suppose these facts are denied; what reason have gentlemen on the other side of this House to desire in time of peace the presence of armed men at elections when there are no armed enemies of the United States present? If it is not for intimidation, if it is not to influence the vote in their favor, why have them there? Why should the people be taxed to maintain them and to send them there? Let gentlemen be frank and meet the question here, for they will have to meet it before the people. They cannot disguise it. Sir, this sixth section ought always to have been the law, but our wise and patriotic forefathers never dreamed of its necessity. After having emerged from the revolutionary struggle for liberty and freedom, when they formed our Constitution and attempted to secure the rights of the people, they did not dream of the radical party; they did not dream of the outrages of that party since they have been in power. If they had they doubtless would have guarded strictly the liberty of the ballot-box, the right of suffrage, from Federal interference—the right to choose our rulers without the influence of bayonets at the elections or of deputy marshals and supervisors. They would have guarded it in the organic law of the land, as we are trying to secure it by act of Congress.

Why, sir, who would have thought when our form of government, with its three independent departments, the executive, legislative, and judicial, each independent of the other, framed as checks to give it stability and to insure the protection of the citizen in the enjoyment of liberty—I say, who would have thought that the day would come when the attempt would be made to strike down the judiciary, the Supreme Court; when the bench would be filled by partisan judges for partisan purposes; when even acts of Congress in violation of the Constitution, after being so decided, should remain in full force unless two-thirds of the judges on the Supreme Bench should agree that they were unconstitutional, as was attempted by a bill introduced in this House and voted on January 13, 1868, (see Journal of House of Representatives, page 121, second session Fortieth Congress, 1867 and 1868), and that it would have received one hundred and eleven votes, all republican? And yet, sir, this was done, as will be seen from Congressional Globe, second session Fortieth Congress, page 489; and, sir, one of the votes was the distinguished gentleman from Ohio, [Mr. GARFIELD,] who said the passage of the sixth section of this bill meant revolution.

Sir, this was revolution indeed. It startled patriots all over this

land when they saw the attempt by the republican party in this House to tear down one of the three pillars of our temple of liberty, to strike down the judiciary, the palladium of American freedom; and if it had passed the Senate and become a law, well might we have breathed the requiem sigh for departed liberty and freedom. It shows to what extent men will go when carried along by prejudice and partisan spirit. Here was the attempt to make Congress supreme and give them the power to even override the Constitution of our country. Under this law they could pass any unconstitutional act to oppress the people, and when relief was sought in the judicial department of the Government, and although the inferior courts of the United States should decide the act an outrage and unconstitutional, yet it was to remain in full force unless two-thirds of the supreme judges should decide it unconstitutional when in all other cases a majority of the court was a quorum to decide all questions of law; yet, sir, one of the prominent gentlemen who voted for that proposition now tells us if we pass the sixth section of this bill it means revolution. Why? Because he said it would be resisted by the republican party, and intimated that if passed it would be vetoed; and if we still persisted, it would be an attempt to destroy or "starve the Government to death." Monstrous declaration! Are we to be intimidated in doing what is right? Are we to be prevented from passing a law to secure to every man the right of "free ballot," the right to vote at the elections unintimidated by the presence of armed soldiers in time of peace, by a threat of the veto power, merely because we see proper to put this just and proper law into an appropriation bill, in the exercise of our constitutional rights as representatives of a majority of the people of the United States? Have not the republican party time and again set us the example? Whenever it has suited them they have put such legislation on appropriation bills as they saw proper, many instances of which have been referred to in this debate.

Has it not been done even in England, under a monarchical government, by the House of Commons frequently in the course of two hundred years whenever encroachments have been made upon the liberties of the people by the Crown? And if we do it, if we follow the example of the republican party by putting this section, right and proper in itself, into an appropriation bill, we are told by the gentleman from Ohio [Mr. GARFIELD] that revolution is to be brought upon the country; the Government "starved to death!" How? By the veto of the President. Well, sir, if Mr. Hayes vetoes this bill on account of the sixth section guarding the right of suffrage, then the responsibility will rest on his shoulders, and not on ours, for starving the Army. It is the first time in many years that the country has had a democratic House of Representatives and Senate, and the American people look to us to repeal the unjust laws that were passed in passion and prejudice and to maintain a dominant party in power in violation of the free will of the people. The people expect us to give them free and untrammelled elections, which will prevent scenes that many of them have witnessed in Kentucky and other States of armed men deterring and preventing them from exercising their right to vote. I do not believe Mr. Hayes will veto the bill on account of the sixth section. I know that the people of Kentucky, of both political parties, will indorse the sixth section of this bill, and I believe a large majority of the people of the United States will approve it. But if he does, and persists in that veto, and thereby starves the Army of the United States, then let the responsibility rest where it belongs, on the head of the President, for vetoing a bill right, proper, and constitutional, passed by a majority of the representatives of the people in the exercise of their constitutional rights. As far as I am concerned, I am ready to meet the issue; and I believe every lover of constitutional liberty on the democratic side of this House is determined to give the people free elections and free jury trials by prohibiting the presence of armed soldiers at the elections, by abolishing this swarm of hired partisans, the supervisors of elections and the special election deputy marshals, and repealing the test oath in jury trials. I sincerely hope there are gentlemen on the other side who will rise above party prejudice and vote for these measures.

Mr. Chairman, I will not detain the committee longer, as these measures have been so thoroughly discussed by others on this side of the House. I am anxious that we may get through with these measures and try to give the country some relief upon the financial questions that interest the people at this time.

The CHAIRMAN. The time has arrived at which the House has agreed to take a recess.

Mr. SPARKS. I move that the committee do now rise. The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPRINGER reported that, pursuant to the order of the House, the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. SPARKS. I move that the House take a recess until half past seven o'clock.

The motion was agreed to; and accordingly (at four o'clock and thirty minutes p. m.) the House took a recess until half past seven o'clock p. m.

AFTER THE RECESS.

The recess having expired the House reassembled at half past seven o'clock p. m.

Mr. REAGAN. I move that the House resolve itself into Committee of the Whole on the state of the Union for the further consideration of the Army appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SPRINGER in the chair,) and resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

Mr. BARBER. Mr. Chairman, I avail myself very gladly of this opportunity to address this committee, for I have been rather under the impression, in the course of the remarks made here since the beginning of this debate, that this might possibly be the last session of the American Congress, and certainly I would like the opportunity of making at least one speech, after having had all the arduous service of the campaign. There seems to be a good deal of question, Mr. Chairman, about what is the real subject-matter of debate before this committee. The issue is stated in various ways, according to the notions of the different speakers and according to the party predilections of the gentlemen who hold the floor.

It seems to me that there cannot be any very great mistake about the real character of the legislation which is proposed here as a sort of rider to this appropriation bill. No sophistry can obscure the purpose or design of this rider, as I understand it.

Mr. Chairman, it is a distinct proposition submitted to the American Congress to repudiate the highest obligations of the National Government to the individual voter, that of absolute protection at the polls. It has been well said by the distinguished gentleman from Georgia [Mr. STEPHENS] that the protection of the voter at the polls was left to the State governments for many years, for sixty or seventy years, during the earlier and happier days of this Republic, and our venerable friend said that this protection might be still left to the State governments. But, Mr. Chairman, no one better knows than he that times have changed, and men have changed. This country is not what it was. Men are not what they were. In my judgment this proposition comes at a very peculiar time and a very remarkable juncture of our affairs. It has been substantially said here upon this floor by a distinguished gentleman from the Southern States [Mr. HOUK] that several of the State governments at the South are flagrant usurpations of the most aggravated character.

It has been stated here to-day by the same gentleman that at the recent elections large multitudes of men, citizens of the United States, have been disfranchised, deprived of the right to vote by the perpetration of crimes the worst known to the wickedness and the frenzy of factions. It has been charged here to-day, substantially, that the majority which rules this Chamber has been secured through violations of law. Such charges as these made in the Congress of this great country ought not to pass unchallenged and unheeded. And when they are made, men ought to pause a long time before they disregard them and proceed to strip by national legislation the Chief Magistrate of this country of all possible power of future interference to protect the voters at the polls. Not alone has this charge been made by the gentleman from Tennessee, [Mr. HOUK,] but I happened, in common with many others who were here in December last, to hear it from the Chief Magistrate of this country. I send to the Clerk's desk the annual message of the President of the United States, and ask to have read the paragraph I have marked.

The Clerk read as follows:

The friends of law and order looked forward to the conduct of these elections as offering to the general judgment of the country an important opportunity to measure the degree in which the right of suffrage could be exercised by the colored people, and would be respected by their fellow-citizens; but a more general enjoyment of freedom of suffrage by the colored people, and a more just and generous protection of that freedom by the communities of which they form a part, were generally anticipated than the record of the elections discloses. In some of those States in which the colored people have been unable to make their opinions felt in the elections the result is mainly due to influences not easily measured or remedied by legal protection; but in the States of Louisiana and South Carolina at large, and in some particular congressional districts outside of those States, the records of the elections seem to compel the conclusion that the rights of the colored voters have been overridden, and their participation in the elections not permitted to be either general or free.

Mr. BARBER. Now, I submit that such suggestions, coming from such a source, ought not to have passed unheeded by any body of men not absolutely insensible to the demands of justice. And I recognize in the proposed legislation in this appropriation bill the response of the commons of this country to these suggestions of its Chief Magistrate. The country so understands it, the world so understands it, and there is hardly a chance to cavil about it.

I would like to know with what degree of propriety Representatives on this floor can be asked, in view of these grave and weighty allegations, to abdicate the national sovereignty upon this subject. I want to know what political party can afford to take that responsibility.

It has been suggested in this connection that these laws upon the subject of Federal elections, of which this provision is only a portion, are unconstitutional. In this connection I want to say a word on that point. I have not a doubt in my mind about their constitutionality. It seems to me that the Constitution contains an explicit and unqualified grant of power to the General Government in the broadest terms, authorizing us to maintain this system of election

laws by the Federal Government. I refer for the moment to section 4 of article 1 of the Constitution, a portion of which I will read:

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

Now, by that language I understand that the Congress of the United States is authorized to make the same rules and regulations which a State Legislature may make; authorized in explicit and unqualified terms. And I understand it to be the safe rule of constitutional construction to hold that we may make laws to enforce all acts which we pass in accordance with the Constitution.

I understand it to be within the sphere of a State government to provide, as a portion of the manner of conducting an election, for the maintenance of peace and order at the polls. And I submit that it is a legitimate piece of legislation on the part of the General Government in like manner to provide for the preservation of peace at the polls. And if the Federal Government, in the execution of its constitutional powers, chooses to provide by positive enactment for the maintenance of peace at the polls it can provide for the use of the Army to enforce that enactment.

We have heard a great deal about constitutional law and civil rights from the other side of the House during the past few days. I have had my curiosity excited. It is a matter of surprise to me, somewhat, how gentlemen who but a short time ago were engaged in the effort to destroy these institutions should now know so much better than northern people just how to preserve them. It has been a matter of surprise to me why gentlemen who were born and raised in an atmosphere where the colored man had no rights which a white man was bound to respect should now read us lectures about human rights and civil liberty. I desire to state the proposition as I understand it. I do not understand this to be a proposition as to whether we are to have untrammelled elections. I understand it to be a proposition that this Government, which has so recently enfranchised a race of nearly four millions of people, shall now turn its back upon them and leave them to the tender mercies of a southern oligarchy. That is just what I understand this question to be, and that is just what this nation cannot afford to do. That would be a piece of baseness, an act of treachery upon the part of this people, which would overshadow all the glory of the Anglo-Saxon race.

When I listened to the magnificent declamation this afternoon of the gentleman from Kentucky [Mr. BLACKBURN] when he appealed with pride to the record of our ancestors, I could not help but think that it was not his fault that the flag which now floats over us was not long years ago made the symbol of the departed glory and greatness of this Republic. I could not help but think that it was not his fault that this Union of the States to which Washington devoted the energy and the inspiration of his genius, and to which he left his benediction when he died, was not long since rent asunder and the people of this country committed to everlasting and helpless civil strife.

It is said that the demand for this legislation is made in obedience to public sentiment, that this being a Congress fresh from the people it represents that sentiment. I deny that there is any such sentiment in this country which can properly be characterized as a public sentiment. The only sentiment of that kind in this country is a partisan sentiment, a factions sentiment, not rising in any degree whatever to the rank or dignity of a public sentiment.

Let me tell you, gentlemen, that your campaigns for the last half a dozen years, in which you have lured the independent voters of the North to the support of the democrats under the specious cry of reform, do not warrant you in claiming that there is a public sentiment at the North which demands the repeal of these election laws.

Your whole campaign of 1876 was a grand imposition upon the credulity of the North. And let me say to northern gentlemen here who hold their seats by virtue of the independent vote of the northern States, that those independent voters never dreamed of authorizing you to condone, indorse, or gloss over in any manner these alleged outrages at the South. They never dreamed of authorizing you to surrender here the very vital principle for which the war was fought, either at the dictation of our confederate friends at the South or of a party caucus. Let me tell those gentlemen that when they repeal this law in obedience to a supposed public sentiment at the North, they but add another to the long list of demonstrations that the modern democracy cannot be safely intrusted with the control of national affairs. Let me say to those northern gentlemen who propose to join in the repeal of this law in this mode and manner that when they do it they only commit again upon this floor the same pitiable blunder which northern democrats have committed from time immemorial.

Now, Mr. Chairman, a great deal has been said about a presidential veto in case this bill shall pass this honorable body and the Senate. My acquaintance with the Chief Magistrate of this country is very limited. I am about the last man who would be authorized to speak for him in this behalf, and I certainly should not attempt to do so were I so authorized, after the suggestions so often made on this floor as to the true doctrine on that subject. But this I do know: if the Chief Magistrate of this country, in the event of this bill passing both Houses of Congress, should approve and sign it, so that it should

become a law, he will incur the lasting execration of an overwhelming majority of the people of the North.

Mr. BELTZHOVER. Mr. Chairman, the contention which now engages the members of this House is on the proposition to amend sections 2002 and 5523 of the Revised Statutes by striking out the words "or to keep the peace at the polls" where they occur in said sections.

The sections as they now stand are as follows:

SEC. 2002. No military or naval officer or other person engaged in the civil, military, or naval service of the United States shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States or to keep the peace at the polls.

SEC. 5523. Every officer of the Army or Navy or other person in the civil, military, or naval service of the United States who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States or to keep the peace at the polls, shall be fined not more than \$5,000 and suffer imprisonment at hard labor not less than three months nor more than five years.

The issue raised by the amendments proposed involves the question whether we shall have free elections or whether they shall be dominated and controlled by military power. It involves the question whether this Government shall be based on the free consent of the people as expressed at the ballot-box or whether the commander of the Army shall mock them with a plebiscite through which his supreme will shall be registered by his subservient subjects. This issue comes home with peculiar force to the people of the State which I have the honor in part to represent, and in whose bill of rights is the declaration that, "as standing armies in time of peace are dangerous to liberty, they ought not to be kept up." This provision exists in the fundamental law of only one other State of the original thirteen. The founders of our Government borrowed this important principle from their English ancestors, who, after suffering for centuries under the oppressions of unlicensed military power and tyrannical prerogative, declared in their bill of rights at the close of the revolution of 1688, "that raising or keeping a standing army within the kingdom in time of peace, unless with the consent of Parliament, was against law." At that day and as the result of years of conflict and suffering they wrung from the executive the concession that the source of all military power was in the people; that its existence and extent and duration were wholly in the discretion of the Legislature of the nation.

This concession was one of the first fruits of the great battle for civil liberty and it has been watched and guarded with a jealous care by the people ever since. From this principle were born the provisions in our National Constitution, that in Congress shall reside the sole power to raise armies and make appropriations for their support, and provide laws for their government. In the language of Mr. Hamilton in discussing these very provisions—

Independent of all other reasonings on the subject it is a full answer to those who require a more peremptory provision against military establishments in time of peace to say that the whole power of the proposed government is to be in the hands of the representatives of the people. This is the essential and after all the only efficacious security for the rights and privileges of the people which is attainable in civil society.—*Federalist*, 28.

And clearly, in accordance with this view, the power of the legislative and executive departments of the Government were arranged and fixed under the Constitution. It is provided that Congress shall have the power "to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years." This provision is almost an exact transcript of the law fixing the power of the English Parliament on this subject except that there is no limitation of the time for which an army appropriation shall be made by Parliament. This power "to raise and support armies" and the limitation as to supplies therefor, when construed in connection with the history of the events and legislation out of which it arose, clearly give the representatives of the people the right to declare for what purposes and under what restrictions the Army shall be used. It gives Congress the absolute power to determine the size and character of the Army or whether there shall be an army at all. Following Mr. Hamilton's argument and quoting from his language in this connection—

Next to the effectual establishment of the Union the best possible precaution against danger from the Army is a limitation of the term for which revenues may be appropriated to their support.—*Federalist*, 29.

The founders of the Government, in further proof of the aversion of the people to any enlarged use of the Army, provided by the second article of the amendments to the Constitution that "a well regulated militia is necessary to the security of a free state." These powers thus reposed in Congress in reference to the control of the Army are clear and unambiguous. The duty and power of the President are equally clearly and precisely defined by the Constitution. "He shall take care that the laws be faithfully executed." He has no powers over the Army under the Constitution except what are conferred by act of Congress, and all these powers are subject to modification and repeal. What is there, then, in this contention for the right of the Executive to use the Army in controlling elections in the States? The right to vote is not one which is derived from the Constitution of the Federal Government. It is a State right. It depends solely

upon the fundamental law and statutes of the several States. The limitations on it are almost as numerous and various as the States themselves. In some States there are property qualifications; in some, qualifications as to the intelligence of the applicant for suffrage. In all the States there are very varied qualifications as to the place of residence, time of such residence, time of assessment of taxes, time of payment of taxes, &c. Numerous differences on the subject of suffrage existed at the time of the formation of the Government and the adoption of the Federal Constitution. These differences were then found to be irreconcilable, and unless the question had been left as it was, solely to the determination of the States themselves, the Union would never have been formed. But, submitting the whole question to the several States, the founders of the Government provided by article 1, section 2, of the Constitution, that in all Federal elections "the qualifications of electors shall be the same as those of the most numerous branch of the State Legislature."

The right thus reserved by and secured to the States is inviolable under article 10 of the amendments to the Constitution, which provides 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." And it was the settled belief and practice that the right of suffrage was solely under State control and beyond the power of Federal interference until 1865. In that year, at the close of a great civil war in which the foundations of free government had been shaken and almost all the limitations on arbitrary power had been swept away—when the passions of the leaders in power knew no bounds and the conservative supporters of the Constitution grasped at anything to stay the tide—the law was passed authorizing the use of the Army "to keep the peace at the polls." O Peace, what crimes are committed under thy name! All the governments of the people in the olden time went down beneath the iron heel of military power. The modern republics of Venice and Florence and the United Provinces and Genoa and France were strangled in the midst of their protection by the army. On the ruins of the French Republic of 1856 its president built a throne and mocked the people by a plebiscite wherein the army kept the peace at the polls and by an almost unanimous vote proclaimed that "the empire is peace." All the lessons and traditions of the past warn the friends of free government against the interference of military power. The free consent of the people expressed by a free and untrammelled ballot is the only basis on which a republic can endure.

Every breach of fundamental law, though dictated by necessity, impairs that sacred reverence which ought to be maintained in the breast of rulers toward the Constitution of a country and forms a precedent for other breaches wherein the same plea of necessity does not exist at all.—*Hamilton*.

Without stopping to inquire, therefore, what led to the act of 1865, or who was responsible for its passage, or whether it was dictated by any necessity, let us, in view of the history of kindred legislation in the past and the certainty of its tendency and results in the present, wipe it from the statute-book of the nation. It is very plain that in connection with the act under consideration, which appropriates millions of the people's money for the support of the Army, we have the right and the power to say how that Army shall be used. If there were no precedents for attaching the repeal of the odious sections to this appropriation bill, the exigencies of this case would justify us in making a precedent for all future time. It is in keeping with the letter and spirit of the Constitution itself and with the great precedents of English parliamentary history on which the Constitution itself was founded. But we are not without precedents for our action in this case. From the inception of the reign of the republican party in this country, during all the years when it had absolute control of all the branches of the Government, it gave us annually numerous instances in which other legislation was attached to appropriation bills. What the President will do with the bill when passed, we do not know, or should not. He is the keeper of his own conscience and responsible in his own person and character to the people and the judgment of the future. It is our solemn and imperative duty to pass the bill. It is our duty as the Representatives of the people to see that none of the great rights which they have achieved after ages of struggle shall be allowed to be wrested from them by an Executive who is their servant. To the unprecedented threat from the gentlemen on the other side that the President will veto the bill, we answer with a great English lawyer, when confronted with the arrogance of prerogative power, "When that case arises, we shall do that which shall be fit for the Congress of a great nation to do."

Mr. REAGAN. Mr. Chairman, the subjects before us are of more than ordinary interest, partly arising from their importance and partly on account of the attempt which is being made to create a factitious alarm in the public mind because they have been brought forward for consideration.

The latitude of debate which is allowed in Committee of the Whole and which has been taken in this discussion extends it beyond the consideration of the two provisions of the pending bill for the repeal of laws authorizing the use of the Army in elections, and embraces the provisions contained in the legislative, executive, and judicial appropriation bill for the repeal of the law prescribing the test oath for jurors in the Federal courts, of the law for the appointment of chief supervisors of elections, and of the law for the appointment of special deputy marshals, and of the laws prescribing their duties and

the duties of marshals and their general deputies in relation to elections, and limiting the duties and powers of local supervisors.

The real questions which arise in the consideration of these are:

First. Are the provisions referred to for the repeal of these laws constitutional?

Second. Are the proposed repeals just, wise, and necessary?

Third. Is the plan proposed of inserting the provisions for their repeal in appropriation bills in accordance with the practice of Congress as it has heretofore prevailed?

These would seem to be the questions which should be considered and determined in this debate.

And first, as a conclusive answer as to whether the proposed legislation is constitutional, it is only necessary to say that it cannot be unconstitutional to repeal a statute. The Constitution may be violated by an act of new and affirmative legislation. But the repeal of a statute is a mere question of policy to be determined by the legislative will. By article 1, section 1, of the Constitution, it is declared that "all legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." Under this view it will be seen that the proposed legislation would not be the subject of executive objection on constitutional grounds; and we may dismiss this point in the argument as being free from controversy.

On the second point, as to whether the proposed repeals are just, wise, and necessary, I do not propose to go into the whole of the argument, but only to present a part of it, resting on general principles, and leave to others the more elaborate examination of the provisions of the statutes we propose to repeal, as to do this, in view of other questions I propose to discuss, would occupy more time than I am allowed under the rules of the House.

In the discussion of this point it becomes necessary to consider the character, theory, and objects of our Government; and this may be done best by contrasting them with those of the governments which preceded it and which now antagonize its great fundamental principles. The political theories of the Old World and those of despotic government everywhere are that sovereignty is derived from the power which rules, whether that be king, emperor, or nobles. The right to rule has sometimes been held to be the divine right of kings. That theory demands obedience from the people to their rulers. It rests on the fundamental idea that the people are not capable of self-government; that they must accept such liberty as their rulers may think it safe to give them; that the government or ruling power is the source of authority and fountain of honor. Under this device of kingcraft, this foundation-stone of despotism, mankind has languished and suffered wrongs, cruelty, and oppression through the ages of the past. This theory contemplates a government of force as contradistinguished from a government of consent.

Our constitutional Republic rests upon principles directly the opposite of these, and by the Declaration of Independence certain truths are declared to be self-evident, among them—

That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.

Our Constitution and form of government rests upon these as among the most important principles of our system. These make ours a Government of consent, as contradistinguished from a government of force. They make it a Government of the people, by the people, for the people. Under this theory the sovereign power resides in the people and not in their officers or government. Our system of government recognizes the capacity of the people for self-government. If they are not capable of self-government, then our system is a failure and should be abandoned, and a strong form of government be adopted, strong in the despotic sense.

The powers of government in our system are divided between the Federal and the State governments. To the Federal Government are confided all such powers as are necessary for the management of its national and international relations, and these powers are specified in the Constitution of the United States. To the States are reserved the powers necessary in local government. These local governments constitute a very important and very interesting feature in our system of government, which must be maintained or our whole system must fall.

Among the powers of these local governments is the determination of the qualifications of voters, the regulation of the elective franchise, and their power over the election of their own officers is absolute and cannot be interfered with by the Federal Government without a surrender to the extent of such interference of the right of local self-government.

The provisions of law which we propose to repeal in these two bills are of an aggressive, repressive character. The very existence of these laws upon the Federal statute-books is of itself a denial of the capacity of the people of the States for self-government; for if they are capable of self-government, then they do not need the agency or interference of the Federal Government for their safety.

The claim has been made, and is still made, that under article 15

of the Constitution the Federal Government has undertaken the duty of protecting the voters of the States. This article only prohibits the States from abridging or denying the right of citizens to vote "on account of race, color, or previous condition of servitude." This has been held by the Supreme Court as only referring to the action of the States, and does not prevent a State from abridging the right to vote on other grounds than those mentioned in the article; nor does it take from the States the power to declare who are voters or to regulate the elective franchise. The Federal Government, as held by the Supreme Court, cannot confer on citizens the elective franchise, and cannot regulate what it cannot give.

Under section 4 of article 1 of the Constitution it is provided that the "times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

It has been claimed that under this provision the enforcement acts we propose to repeal might be adopted. But it is well settled, upon authority, that this power to regulate relates mainly to the time, places, and manner of holding elections, and does not authorize the prescribing of the qualifications of electors or confer the power to declare who shall and who shall not vote. This is settled by the second section of article 1 of the Constitution, which provides "that the House of Representatives shall be composed of members chosen every two years by the people of the several States, and the electors in each State shall have the qualifications requisite for the electors of the most numerous branch of the State Legislature." The qualifications of electors in a State are to be prescribed by the authority of the State, and not by Federal authority.

The true construction of section 4, article 1, of the Constitution, above quoted, manifestly is that in the event of the people of a State failing to make provisions on these subjects Congress may, in the exercise of its discretion, make regulations on the subject, and that when the States make regulations Congress may alter them as to "the time, places, and manner of holding elections." The history of this provision shows that the object of inserting it in the Constitution was to enable the Federal Government to secure representation in Congress in case the States should neglect the performance of their duty in this respect. It would be a gross political solecism to suppose that a system of State and a system of Federal laws, in relation to elections, could be enforced at the same times and places without conflict and danger.

The duty of providing for free fair elections, and of providing for the punishment of those who violate election laws, undoubtedly devolves upon the States. To my mind it is a clear usurpation of power to authorize the marshals of the United States, and their regular and special deputies, and general and local supervisors, such as are provided for in these statutes, to interfere with elections under the authority of Federal laws, by making arrests, and especially by making them without the authority of an affidavit charging a violation of the law, and without a lawful warrant as required by the fourth amendment to the Constitution, which provides that "no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."

There can be no doubt that so far as relates to elections for State and municipal officers such interference would amount to a usurpation of power. The usurpation of the power to do these things by the authority of the Federal Government rests upon the idea that the people are incapable of self-government; that they cannot be intrusted with the holding and conducting of elections; that they cannot be intrusted with the administration and enforcement of the laws to secure the purity of elections; and that this must be done by a power superior to them. This involves the idea of a government of force and the authority of the Federal Government to manage the affairs of the States. It is contrary to the theory and genius of our Government; it is contrary to the doctrines of the Constitution; it is subversive of popular liberty; it is destructive of the rights of the States. I claim, therefore, that it is just, wise, and necessary to repeal these laws.

On the third proposition, as to whether the plan proposed of inserting the provisions for the repeal of these laws in the appropriation bills is in accordance with the practice of Congress as it has heretofore prevailed, I submit the following:

In the act of 1872, making appropriations for the civil service, and the act of 1856, making appropriations for the support of the Army, the republicans in Congress voted to pass general legislation upon appropriation bills, that general legislation being of an aggressive and offensive character, while in the bills now before the House it is only proposed to repeal obnoxious laws. But the republicans are estopped from now denying the right of Congress to pass such laws in this form by their current and constant practice during all the years they have had the majority in both Houses of Congress, from 1861 to 1874, of habitually passing general laws in appropriation bills.

To make good this declaration I here present a tabulated statement of such instances of general legislation, extending from July 5, 1862, to March 3, 1875, giving, in the first column, the Department for which the appropriation was made, in the second column the date of the acts referred to, in the third column the volume and page of the laws, in the fourth column the numbers of the sections of the

laws in which they occur, and in the fifth column the number of such acts of general legislation, aggregating in all 387. These were all

passed during the twelve years that the republicans held a majority in each House.

New legislation on appropriation bills.

Department.	Date of acts.	Volume and page of laws.	Number of sections.	Number of items of such legislation.
Indian.	July 5, 1862	Volume 12, page 529.	2 to 6	6
Indian.	Mar. 3, 1863	Volume 12, pages 792, 793.	2 to 7	7
Post-Office.	April 17, 1862	Volume 12, page 382.	4 and 5	2
Post-Office.	Feb. 9, 1863	Volume 12, page 647.	3 to 5	3
Army.	July 17, 1861	Volume 12, page 564.	2 and 3	2
Army.	July 5, 1862	Volume 12, pages 508, 509, 510.	2 to 11	10
Army.	Feb. 9, 1863	Volume 12, page 648.	2	1
Legislative, executive, and judicial.	Mar. 14, 1862	Volume 12, pages 368, 369.	3 to 6	4
Legislative, executive, and judicial.	Feb. 25, 1863	Volume 12, pages 694 to 696.	2 and 3	2
Sundry civil.	July 24, 1861	Volume 12, page 272.	4	1
Sundry civil.	Mar. 1, 1862	Volume 12, page 352.	4	1
Sundry civil.	July 11, 1862	Volume 12, page 534.	2	1
Sundry civil.	July 16, 1862	Volume 12, pages 582, 583.	2 and 3, 5 and 6	4
Sundry civil.	Mar. 3, 1863	Volume 12, pages 750 to 754.	2 to 25	24
Army.	June 15, 1864	Volume 13, pages 127, 129, 130.	1, 2, 3, 4, 5	5
Army.	Mar. 3, 1865	Volume 13, page 497.	3, 4, 5, 6	4
Sundry civil.	July 2, 1864	Volume 13, pages 347, 351, 352, 353.	2, 3, a7, a8, a9	5
Consular and diplomatic.	June 20, 1864	Volume 13, pages 139, 140.	2, 3, 4	3
Deficiency.	Mar. 14, 1864	Volume 13, pages 2, 5, 6, 7, 8.	b1, 2, 3, 6, 7	5
Legislative, executive, &c.	June 25, 1864	Volume 13, pages 160, 161.	6, 7, 8	3
Legislative, executive, &c.	Mar. 2, 1865	Volume 13, pages 160, 161.	3, 6, 7	3
Indian.	Mar. 2, 1865	Volume 13, page 180.	2	1
Indian.	Mar. 3, 1865	Volume 13, pages 562, 563.	4, 5, 6, 7, 8, 9	6
Navy.	May 21, 1864	Volume 13, page 85.	2, 3, 4	3
Navy.	May 2, 1865	Volume 13, page 467.	6, 7	2
Military Academy.	April 1, 1864	Volume 13, page 39.	3, 4, 5	3
Army.	July 13, 1866	Volume 14, pages 92, 93.	4, a5, 6, 7, 8	5
Army.	Mar. 2, 1867	Volume 14, pages 486, 487.	2, a3, 5, 6	4
Sundry civil.	July 28, 1866	Volume 14, page 321.	a3, 6, 7, 8, 12, 13, 14, 15, 16, 17, 18	11
Sundry civil.	Mar. 2, 1867	Volume 14, page 466.	2, 7, 8, 10, a11	5
Indian.	July 26, 1866	Volume 14, page 280.	4	1
Indian.	Mar. 2, 1867	Volume 14, page 515.	1	1
Legislative, &c.	July 23, 1866	Volume 14, pages 206, 207.	2, 3, 4, 5, 6, 7, 8, 11	8
Legislative, &c.	Mar. 2, 1867	Volume 14, page 457.	1, 2, 3	3
Navy.	April 17, 1866	Volume 14, pages 37, 38.	2, a4, 5, 6, 7	5
Navy.	Mar. 2, 1867	Volume 14, page 492.	2, 3	2
Post-Office.	May 18, 1866	Volume 14, pages 49, 50.	3, 4, 5, 6	4
Post-Office.	Feb. 18, 1867	Volume 14, page 394.	1	1
Deficiency.	Mar. 2, 1867	Volume 14, page 470.	2, 3, 4, 5, 6, 7, 8, 9	8
Army deficiency.	Feb. 12, 1868	Volume 15, page 36.	2	1
Army.	Mar. 3, 1869	Volume 15, page 318.	2, 3, 4, 5, 6, 7	6
Sundry civil.	July 20, 1868	Volume 15, page 110.	1, 7, 8, 9	4
Consular and diplomatic.	Mar. 30, 1868	Volume 15, page 58.	2, 3, 4	3
Consular and diplomatic.	Mar. 3, 1869	Volume 15, pages 321, 322.	2, 3, 4, 5, 6	5
Indian.	July 27, 1868	Volume 15, page 223.	2, 3, 6	3
Legislative, &c.	July 20, 1868	Volume 15, page 110.	2, 3, 4, 6	4
Navy.	June 17, 1868	Volume 15, page 72.	2	1
Navy.	Mar. 1, 1869	Volume 15, page 280.	2, 3, 4	3
Deficiency.	Mar. 29, 1867	Volume 15, page 9.	6	1
Deficiency.	July 25, 1868	Volume 15, page 177.	2, 3	2
Army.	July 15, 1870	Volume 16, pages 317, 318.	2 to 25	24
Sundry civil.	July 15, 1870	Volume 16, page 310.	2, 3, 4, 5, 6, 7, 10, 11, d12, d13, 14	11
Sundry civil.	Mar. 3, 1871	Volume 16, page 314.	4, 8, a9	3
Consular and diplomatic.	July 11, 1870	Volume 16, page 221.	f2	1
Indian.	Apr. 18, 1869	Volume 16, pages 39, 40.	2, 3	2
Indian.	Apr. 18, 1869	Volume 16, page 360.	2 to 13	12
Indian.	Mar. 3, 1871	Volume 16, pages 570, 571.	3	1
Legislative.	July 12, 1870	Volume 16, pages 250, 251.	2 to 9	8
Legislative.	Mar. 3, 1871	Volume 16, pages 494, 495.	2, 3, 4	3
Navy.	July 15, 1870	Volume 16, pages 330, 335.	2, 4 to 19	17
Navy.	Mar. 3, 1871	Volume 16, pages 534, 538.	2 to 13	12
Post-Office.	Mar. 3, 1871	Volume 16, pages 572, 573.	3, 4, 5	3
Army.	June 6, 1872	Volume 17, page 261.	1, 2	2
Army.	Mar. 3, 1873	Volume 17, page 545.	1	1
Sundry civil.	Mar. 3, 1873	Volume 17, page 530.	g1	1
Consular and diplomatic.	May 22, 1872	Volume 17, page 143.	1	1
Consular and diplomatic.	Feb. 22, 1873	Volume 17, page 474.	2, 3	2
Indian.	May 22, 1872	Volume 17, pages 189, 190.	2, 4, 5, 7, 8	5
Indian.	Feb. 14, 1873	Volume 17, page 462.	2, 4, 5, 6, 7	5
Legislative, executive, and judicial.	May 8, 1872	Volume 17, pages 82, 83, 84, 85.	2 to 13	12
Legislative, executive, and judicial.	Mar. 3, 1873	Volume 17, pages 508, 509.	2, 4	2
Navy.	Mar. 23, 1872	Volume 17, page 154.	h2	1
Navy.	Mar. 3, 1873	Volume 17, page 556.	1, 2, 3	3
Post-Office.	June 1, 1872	Volume 17, page 202.	1 to 6	6
Post-Office.	Mar. 3, 1873	Volume 17, page 550.	1	1
Army.	June 16, 1874	Volume 18, page 75.	2	1
Army.	Mar. 3, 1875	Volume 18, page 455.	2, 3	2
Sundry civil.	June 23, 1874	Volume 18, page 230.	4, 6	2
Sundry civil.	Mar. 3, 1875	Volume 18, pages 399, 400, 401.	4, 5, 6, 7, 8, 9, j11, 12	8
Indian.	June 22, 1874	Volume 18, pages 176, 177, 178.	3, 4, 6, 7, 9, 10, 12	7
Indian.	Mar. 3, 1875	Volume 18, pages 449, 450, 451.	3, 4, 5, 6, 7, 8, 9, 10, 12	9
Legislative, executive, and judicial.	June 20, 1874	Volume 18, pages 109, 110, 111.	2, 3, 4, 5	4
Post-Office.	June 23, 1874	Volume 18, pages 232, 233, 234.	4, 5, 6, 7, 9, 11, 12, 13	8
Post-Office.	Mar. 3, 1875	Volume 18, pages 342, 343.	2, 4, 5, 6, 7	5
Items of legislation in eighty-four bills.				387

- a Repeal of acts.
b Several clauses.
c Reorganizing Army.
d Appropriation for pier and railroad privilege.
e Civil-service reform.

- f Parson Newman's mission.
g Giving jurisdiction over Alaska.
h Authorizing Secretary to sell vessels and materials.
i Tariff clause.
j Secretary of the Treasury authorized to buy bonds.

There may be many other such acts of general legislation on appropriation bills not of a general character. These are only such as are inserted in the regular appropriation bills, and they exhibit the holiness of the pretense of the republicans now that such legislation is revolutionary, or that its tendency is to destroy or starve the Government, as urged by the gentleman from Ohio [Mr. GARFIELD] and others. As an instance of legislation of this kind by the republican party, I call attention to the act of March 2, 1867, second session, (Statutes at Large, volume 14, pages 486, 487,) making appropriations for the support of the Army. It is as follows:

It fixes the headquarters of the General of the Army; and enacts that "all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and in case of his inability through the next in rank. The General of the Army shall not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at said headquarters, except at his own request, without the previous approval of the Senate; and any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void," and provides the penalties of disobedience, &c.

This was one of the acts of a republican Congress, intended to strip the President of his constitutional powers as Commander-in-Chief of the Army and to degrade him before the American people, because of his opposition to what he believed to be the unconstitutional and despotic measures of reconstruction, which he regarded as endangering the liberties and welfare of the whole country. It is the same party which now denounces general legislation in appropriation bills that passed this violent and unconstitutional act in an appropriation bill.

By the deficiency act of March 2, 1867, (section 3, page 470, volume 14 of the laws,) a tax was levied upon gaugeable goods.

By the Army appropriation bill of March 3, 1869, (Statutes at Large, volume 15, page 318,) in the sections from 3 to 7 inclusive, the Army organization is changed or modified.

In the sundry civil appropriation bill of July 15, 1870, section 12 appropriates \$225,000 to build a pier in Delaware Bay, and section 13 authorizes the extension of a railroad over it and the free use of it.

In the sundry civil appropriation bill of March 3, 1871, (section 9, volume 16, page 514 of the laws,) provision is made for civil-service reform.

In the consular and diplomatic bill of July 11, 1870, (section 2, volume 16, page 221,) provision was made for Parson Newman's voyage around the globe at public expense, at a salary of \$5,000 per year; a pleasure trip to him, but useless to the public.

In the sundry civil appropriation act of March 3, 1873, (volume 17, page 530,) provision is made for extending the laws of the United States to Alaska. In the naval appropriation act of May 23, 1873, (volume 17, page 154,) authority was given to the Secretary of the Navy to sell naval vessels, and in the sundry civil appropriation act of March 3, 1875, (volume 18, page 401,) section 11 authorizes the Secretary of the Treasury to give notice that he will redeem 6 per cent. bonds in coin at par for the sinking fund. These are given as a few instances to illustrate the character of legislation put by the republican party, when they controlled both Houses of Congress, on the appropriation bills, and it will be seen that as to many of these there can be no pretense that they are germane to the bills in which they were passed.

These references to the past course of the republican party on this subject ought to silence all statements by them of the revolutionary character and tendencies of general legislation on appropriation bills. We are solemnly notified by the gentleman from Ohio [Mr. GARFIELD] that the passage of the two bills now pending with the proposed legislation attached to them will be "revolutionary and destructive of the Government; that it will starve the Government to death." Let us look at this statement. Are there any provisions of general legislation proposed in these bills which are unconstitutional? No lawyer familiar with the Constitution will so contend. Can the passage of either of them be regarded as hasty and inconsiderate legislation? They were discussed and passed through the House of Representatives at its last session, discussed in the Senate, then acted upon by the conference committees of the two Houses. They have received very full consideration before the beginning of this Congress, and are now undergoing a thorough examination in this; and there can be no pretense that they have not been and are not now being fully considered. They are therefore not open to either of these objections. They do not abridge the powers or interfere with the duties of any department of the Government. They do not propose to enact new and untried legislation. They simply propose to repeal legislation which is thought to be hurtful to the best interests of the country.

If under these circumstances a majority of the Senators representing the States of the Union and a majority of the Representatives of the people of the United States shall deem it wise and prudent to pass these bills, wherein can exist the act of revolution? How can this bring about the destruction of the Government? Has it come to this, that a political party which finds itself in a minority in both branches of Congress must resort to positions like that taken by the gentleman from Ohio to defeat proper and necessary legislation, under

the false pretense that it will be fraught with dangers and evils to the country?

If the Senate and the House of Representatives pass these bills under such circumstances, have they not done so in the plain performance of their constitutional duty?

Are we to understand from the remarks of the gentleman from Ohio and of the gentleman from Maine [Mr. FRYE] that they are instructed or authorized by the President of the United States to notify the Congress that if these bills are passed under these circumstances he will interpose his veto, and thus defeat two of the most important of the general appropriation bills; leave the Army, and the legislative, executive, and judicial departments of the Government without the money necessary to carry them on; and that his act in so vetoing them must be considered an act of revolution by the Congress which passed them?

I do not believe, and I will not believe, that these gentlemen have the authority of the President to make any such statement before this House. I do not believe that they will give themselves as authority for any such statement by the President. Why, then, do they make the statement? Is it because they suppose they can act upon the fears of Representatives and Senators, and so drive them from the exercise of their reason and their constitutional functions as legislators?

No one could deplore more than I would a conflict between the executive and the legislative departments of the Government. I not only do not believe that these gentlemen are authorized by the President to say that he will veto these bills, but I prefer to presume and believe, and I do believe that the President will perform his constitutional duty in the examination of these bills after they shall have been passed, and approve or disapprove them as the Constitution, the laws, and character of the bills may justify. It is fair to presume that if Congress shall pass bills not obnoxious to constitutional objections—bills which cannot be considered as having been hastily or inconsiderately passed, and in which the legislative will is expressed, as it has been expressed in many instances by the republican party through its legislation while it had control of both branches of Congress, and is therefore sanctioned by usage and precedent, that the President will approve such bills, and allow the business of the Government to go regularly on.

It cannot be that the President would be guilty of sending a menace to Congress that they must only legislate in accordance with his will. This would be an act of attempted personal government unconstitutional in spirit, irregular and dangerous in its tendencies. I do not suppose the President has attempted, or will attempt, to invade the rights or interfere with the duties of Congress; and I should as much regret for the Congress to take any course which would interfere with the regular discharge of the duties of the executive office or in any way menace or threaten the President in the discharge of his duties.

Surely upon a mere question of policy, in the interest of a party, the President of the whole people would not throw the Government into confusion and cut off the supply of money for several of the most important Departments of Government as a piece of mere political management for political and partisan effect; and, if he would not do this, what other reason does or can exist for the threat that he will veto these bills if passed? These gentlemen have not used the direct words "that the President will veto these measures," but they have told us that the passage of these bills "would be revolutionary and would starve the Government to death," and have left us no other conclusion than that a veto under these circumstances by the President would be charged as a fault upon Congress, and the responsibility be visited upon Congress for the manner in which the President might discharge the duties of his high office toward the whole people. The foregoing facts, I submit, clearly establish my third proposition. I propose to detain the House a few minutes longer to place these matters in a still clearer light.

On the consideration of an amendment to the sundry civil appropriation bill of 1872 to amend the enforcement act of February 28, 1871, relating to the appointment and duties of supervisors of election and deputy marshals and their powers and duties, the gentleman from Ohio [Mr. GARFIELD] said, as will be seen on page 4440 of the RECORD of that date, in resisting the efforts of the minority to defeat that amendment:

Now, the committee of conference having brought in a report under the rules, I do now insist and shall continue to demand that the bill before the House shall be acted on; and against all factious and revolutionary resistance I propose to stand, if need be, until December next, until this appropriation bill shall be considered, shall be voted on, voted up or voted down. This must be done, or we abandon and surrender the right of parliamentary government in this country. We inflict a serious if not a fatal wound upon the freedom and efficiency of the National Legislature.

It will thus be seen that he then denounced as factious and revolutionary the efforts of a minority to prevent the adoption of a provision of general legislation on an appropriation bill; and he declared then, what if true is as true to-day as it was then, that for a majority in such a case to yield to the minority would be to abandon and "surrender the right of parliamentary government in this country, and would inflict a serious if not a fatal wound on the freedom and efficiency of the National Legislature."

I ask the question, does he entertain the same opinions now, and if so, will he aid a minority to make a factious opposition to the will

of the majority and endeavor to compel that majority to "surrender the right of parliamentary government," and will he now aid in inflicting "a serious if not a fatal wound upon the freedom and efficiency of the National Legislature" by resisting the efforts of the majority to pass provisions of law free from constitutional objections?

He now says it is revolutionary and destructive of the Government for us to advocate the adoption of provisions on appropriation bills which are intended to secure the freedom and purity of election and to preserve the rights and liberties of citizens and to prevent oppression and fraud under color of law. We might well infer from the conspicuous antagonism of his views and action now with his views and action on the bill of 1872, above referred to, that he regards everything as factious, revolutionary, and even as destructive of the Government which for the time being is not in accord with his peculiar political opinions and with the supposed interests of the political party to which he belongs. I suggest with all deference that he might well consider whether he is not overplaying his high tragedy and converting it into a farce, in thus so conveniently resisting the dangers of revolution in supporting and opposing exactly the opposite sides of the same political question by calling his adversaries revolutionists.

Another distinguished republican, Mr. Bingham, of Ohio, now a foreign minister, in the discussion of the above-named measure of 1872 used the following language:

I have only been protesting against any right on the part of the minority in this House to indefinitely postpone the right of the majority to pass laws as revolutionary.

So it is seen that he, too, agreed with the gentleman from Ohio in holding that it was revolutionary for a minority of this House to oppose the purpose of the majority to put general legislation on an appropriation bill; thus agreeing with this gentleman's former opinion and being against his present opinion, and in so far showing a weight of republican authority against his present opinion, which may allow our alarm to be a little quieted in spite of his startling cries of revolution. It may also allow us to suppose that he much more fears the effect of just laws and fair elections upon the future of his party than the revolution which he so vehemently proclaims as the anticipated result of the repeal of oppressive and un-American and anti-republican and partisan statutes. And it is notable that this very act of 1872 was passed by the republican majority in both Houses in the sundry civil appropriation act.

But the gentleman has still higher support for his former view of this subject, and still stronger condemnation by his own party friends of his present opinions. The republicans of this House, by a strict party vote, put the following proviso on the Army appropriation bill of 1856:

Provided, however, and it is hereby declared, That no part of the military force of the United States, for the support of which appropriations are made by this act, shall be employed in aid of the enforcement of any enactment of the body claiming to be the territorial Legislature of Kansas until such enactment shall have been affirmed and approved by Congress. And this proviso shall not be construed as to prevent the President from employing an adequate military force; but it shall be his duty to employ such force to prevent invasion of said Territory by armed bands of non-residents, or any other body of non-residents, acting, or claiming to act, as a posse comitatus of any officer in said Territory in the enforcement of any such enactment, and to protect the persons and property therein, and upon the national highways leading to said Territory, from all unlawful searches and seizures; and it shall be his further duty to take efficient measures to compel the return of and withhold all arms of the United States distributed in or to said Territory in pursuance of any law of the United States authorizing the distribution of arms to the States and Territories.

This proviso was placed upon the Army appropriation bill of 1856 by the republicans of the House, then in a majority, sent to the Senate, was there stricken out, and upon a conference the two Houses failed to agree, and failing to agree adjourned without an appropriation for the support of the Army for that year because the republicans insisted on putting such independent legislation on the Army appropriation bill. No higher evidence of their belief that their course was right could well have been produced than that they were willing to adjourn without an appropriation rather than surrender the right to put this proviso on the appropriation bill.

Their course upon this bill is in harmony with their habit of putting general legislation on appropriation bills during all the years in which they had majorities in both branches of Congress. An examination of the debates of Congress through many years shows that while the two parties have alternately occupied each side of this question, and enforced with great ability their respective views, still the great fact exists that this plan of putting general legislation in the appropriation bills has steadily gone on from year to year, under all parties and under all administrations.

I think it fair, in conclusion, to assume that the real issue, whatever else may be pretended, is upon the policy and effect of the repeals proposed in these bills. I do not doubt that the republican party relies and intends to rely upon the use of the military at the polls to intimidate and overawe voters; by the use of the test-oath for Federal jurors to enable them to pack juries in certain States and to secure indictments and convictions contrary to law, partly to influence elections in those States, but more particularly to furnish material on which to carry on sectional agitation in the Northern States; and on the action of the marshals and supervisors, under the authority they now have, to intimidate, arrest, and drive voters from the polls and prevent them from voting, as a means of carrying elections.

I do believe that but for the political advantage they expect to derive from the use of this partisan machinery and the public moneys which support them they would not be likely to make serious resistance to the repeal of these partisan laws. I do know that the democrats insist upon the repeal of these laws, because they regard their repeal as necessary to restore the constitutional methods on this subject, because they regard it as necessary to secure fair and free elections and to obtain a just expression and ascertain the true will of the people at the polls, and thus to preserve in its purity our system of government. And I believe their course will be approved and vindicated by the judgment of the American people.

Mr. HAWK. Mr. Chairman, being a new member of this Congress, I had not thought to say one word upon this question; but the discussion having assumed such a general scope, and becoming convinced that the consideration of the questions arising upon the discussion of section 6 of this bill must necessarily involve many of the points at issue in the consideration of the appropriation bill soon to follow, I have concluded to crave your indulgence for a few moments while I shall present some of the suggestions presented to my mind during the progress of this debate.

The chief reason, in my judgment, Mr. Chairman, why the repeal of the sections of the Revised Statutes mentioned should be opposed is that such repeal is plainly against the best interests of the country in the preservation of the purity and sacredness of the ballot. Surely, based as is our system of government upon the free, untrammelled vote and the intelligence of the citizen, it will be impossible to throw too many safeguards around this precious fundamental prerogative.

Why, indeed, should gentlemen oppose the enforcement of peace at the polls? It is answered that the States may and should be the only power to regulate elections and protect the citizen in the discharge of this high function; that municipal law alone should be relied upon for the care, protection, and preservation of the purity of the ballot-box, and not Federal authority. But, Mr. Chairman, has it not been demonstrated to the entire and complete satisfaction of all observing, thinking men that the State authorities are either powerless or unwilling to protect a certain class of citizens in the untrammelled discharge of this fundamental function? For the answer to this we have but to turn over the leaves of the book of history written in the South during the last ten years. As has been said upon this floor, a book of the examples of violence growing out of elections at the South might be written and then fail to present a full statement of horrible crimes and foul murders.

We are told there is still a war of races in certain sections of the country; that notwithstanding the express declaration of the Constitution that the right of citizens 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, a distinction is still preserved. The letter of the Constitution in this respect is all well enough, but I submit to every gentleman upon this floor whether, in effect, this constitutional provision is not at every election in the South ignored and overridden by a more powerful law than a written constitution; that public sentiment, without the existence of State law, in effect makes this provision null; that there is a distinction preserved, if not expressly on the grounds prohibited by the Constitution, it is incidentally done. Now, Mr. Chairman, in order to the protection of these certain citizens, ostracised, cut off, and neutralized by intimidation and mob rule, it was found in 1865 to be necessary to apply force in order to the free exercise of this first principle of citizenship. Hence that clause of the law now sought to be repealed was placed upon the statute-book. In other words, it became necessary for the strong arm of the Government to be interposed to preserve peace at the polls. There certainly must have been some necessity for the enactment. And what was the necessity? It arose in the emergency then as now existing in certain portions of the country, upon appeals and representations made that the State authorities were utterly powerless or unwilling to protect the citizen at the polls; and this condition of the country being made manifest the power invested in the Executive through this instrument for executing the law, the Army, was invoked and used in laudably and properly protecting the weak against the encroachments of the strong and lawless.

Where, I ask, is the great wrong in this? Why, sir, the Government of the United States can at any moment call upon, nay more, it can drag its citizen from home and family and place him in the front rank of its Army for the protection of the nation against foreign encroachment or domestic disturbance; and it would most certainly be a poor Government indeed that could not, or, having the power, would not, protect the rights of the same citizen in the all-important function of casting a ballot for the person or party of his choice. But it is urged that there have been abuses of this power. This is, however, no argument against the justice of the claims of citizens to full protection. The Ten Commandments are broken every day; but this is no reason why they should be repealed. They are inherently right, and must remain so forever. So with the law protecting the citizen in his right to cast his ballot at the polls without intimidation from any source whatever; and he has a perfect right to demand of his Government that protection. And this being his just and proper claim, it will be a sorry day for American institutions and American liberty when this boon is refused. Who ever knew a soldier of the Republic stationed at the polls anywhere to tamper with the voter in the legitimate discharge of his duty as an elector? I have failed

to learn of one single instance in which any person in the plain, straightforward discharge of his duty at the polls has ever been interfered with in the least.

Riotous conduct should of course be condemned, put down, stamped out; it matters little what the force used, so long as liberty is not tampered with more than it may be crushed out by the vindictive hatred of caste. And no man, just to himself and the best interests of the country, who is attached to the broad ideas and principles of republican government, should oppose for one moment the throwing around this important and high prerogative all the safeguards possible.

I am inclined to the opinion that gentlemen on the other side are not so anxious to be relieved of the presence of troops on account of their encroachments upon their rights as citizens of States as they are anxious to do away with the use of the Army at elections on account of the boldness the presence of the military guardians begets in the actions of our black fellow-citizens on election day.

I am surprised that in tacking these repealing clauses upon appropriation bills gentlemen cannot understand that it is nothing short of a revolutionary measure. It says, in forcible and unmistakable language, that these laws, considered obnoxious, must be repealed to contribute to the political success of a particular party, or the wheels of Government must stop.

You quote English precedent for thus threatening the Government with destruction if your demands be not complied with; but, Mr. Chairman, while such policy was doubted at the time by the best minds and finest statesmen of the period, the demand was truly in the interests of the people and against the encroachments of royalty, while the demand of gentlemen on the other side is opposed to the protection of the dearest interests of the nation and liberty, and in favor of the precipitation of the worst anarchy upon the country.

The States having shown that they are powerless under political pressure to protect the citizen, it is not only just and right but it is the unqualified duty of the Executive to use his power through the Army for the protection which the State fails or has not the ability to exercise. Gentlemen on the other side have made the startling declaration that they being in the majority in both branches of Congress, hence representatives of a majority of the people, therefore the Executive has no right in this case to exercise the veto power vested in him by the Constitution. If this be correct doctrine, when, let me ask gentlemen, is this power to be exercised by the President? The only time it could ever be necessary to use such power is when the majorities in Congress shall be opposed to the policy or preconceived ideas of right, law, and justice of the President. The veto power is guaranteed to the Executive on purpose for use in such an emergency as the present, and should he choose to exercise this power on this particular occasion, I for one must confess that I cannot see why it will not be constitutional and legal for him to so use it. I would not be understood as prejudging the Executive in this particular instance, but merely present that it is his legal, his constitutional right, and urge that the position taken in this regard by gentlemen on the other side is without law or precedent and not warranted.

The gentleman from Mississippi [Mr. CHALMERS] assured the House yesterday that he had faith in the strength of the Government, and it appeared to this side to be a most remarkable statement. A gentleman, a Congressman of the United States, making the bold (?) assertion that he has faith in the Government, thus assuring the country that there is no doubt of the strength, the stability, the perpetuity of the nation under its peculiar organization! The gentleman having no doubt tested thoroughly its adhesive power by the last resort of nations is a most proper person to bear testimony to the strength of the Republic. I commend his faith in the stability of the Government to the general consideration of his colleagues on the other side. It, however, appears in bad taste for gentlemen, after using all the power and machinery of devastating war for the destruction of the Government, to so eulogize its strength while they propose to clutch it by the throat and demand accession to their terms or accept the only other alternative, starvation; that certain laws now on the statute-books must be repealed, or the machinery of government must stop; and these demands, too, by gentlemen who owe their existence, certainly their restoration to full citizenship after a voluntary relinquishment of the same, to the clemency and forbearance of that Government. We search history in vain for a precedent. We forgive you frankly, freely, for your national sin, and you in return repay us in threats, menaces, dictation.

Mr. Chairman, if these repealing clauses have any merits in them, why do not the gentlemen put them upon their passage on their merits? I have no doubt but this side would be at least magnanimous enough to meet the gentlemen in a fair, open discussion of the merits of these laws and their contemplated repeal, and abide the decision; but to accede to their repeal, standing as they do as a threat, a menace to the country and the republican party, we will not, we cannot yield one inch. The responsibility is with the gentlemen on the other side, and they must accept it before the country. An appeal to the voting millions will in 1880 demonstrate that the people will not permit their rights to be tampered with. And why should not the repeal of these so-called "obnoxious laws" be the test in the contest of 1880? Why may we not submit the debates upon these questions in Congress and go to the country in the next presidential contest, appealing to the people to sustain the laws as they now exist or indicate

at the ballot-box then that it is their judgment the time has been reached in our history when we do not need these so-called safeguards to liberty?

This is certainly fair and just, and both the great parties can afford to wait the voice and vote of the citizens at the polls in two years for the decision of this all-important question. Gentlemen upon this floor on the other side of this House should not forget that they are enacting or placing upon record precedent that may not be so easily explained and disposed of in the coming history of legislation in this country. Your tenure of power hangs by a fickle thread even now, and two years may find your party in the position of a suppliant minority; then, having shown your aptitude for using power for partisan purposes, it may be that we of this side may be able to profit by your lesson.

Mr. Chairman, I do not intend to detain the committee longer. My desire is that every republican on this floor shall place himself fairly and squarely upon the record, and stand firmly to the principles of truth, right, justice, and free, pure government, relying upon the good sense and sterling patriotism of the country for support in this hour of great emergency.

Mr. ARMFIELD. Mr. Chairman, the Representatives of the people in two Congresses have declared that the freedom of elections from the control of the Federal Government and the unabridged right of every citizen to a trial by his peers in the Federal courts must be restored; that two of the most dangerous wounds inflicted upon our free institutions by an unhappy civil war must now, after a lapse of more than twelve years of peace, be healed by the hand of legislation. Few of those who have opposed these measures in this debate have denied that they are right in themselves, or that if they could be achieved by the concurrent action of Congress and the Executive it would be "a consummation devoutly to be wished;" but they assume, upon what authority I know not, that this cannot be done, and they attempt to frighten us out of registering the will of those who sent us here by asserting that if we proceed the President will place himself before us like a lion in our path; that rather than allow these laws to be repealed, which are daily eating into the vitals of our Constitution, he will by vetoing the appropriation bills to which they are attached stop the wheels of Government and throw the country and its institutions into chaos.

And then they turn these fearful threats of disaster upon us and charge us with being revolutionists and enemies to the country and its Government; not for what we have done or propose to do, but for what they say the President will do unless we surrender our own convictions of duty and the rights and liberties of the people to their clamor. Ought we to anticipate any such line of conduct for the President? Ought we not to assume, until the contrary conclusion is forced upon us, that the President is as patriotic as we are, and that he will join us cordially and zealously in our effort in this era of restored good-will between the good men of all sections of the country to repair the ravages which civil war and the passions engendered by it have made upon the fundamental principles of our Constitution? Or ought we not to assume, for the present at least, that should the President differ from us as to the aptness of the time or appropriateness of the method in which we propose to repeal these laws, yet that he will obey the Constitution which he has sworn to obey both in its letter and its spirit? And that letter and that spirit is, Mr. Chairman, that the President shall veto no law passed by Congress except for one of two reasons: first, that it is unconstitutional; second, that it is hasty or inconsiderate; and no man will, I presume, have the hardihood to assert that it is unconstitutional to repeal a law, be that law in itself good or bad, constitutional or unconstitutional; and it would require almost equal boldness to assert that legislation which has been deliberately enacted by two successive Houses of Representatives of the United States and by one Senate, and after full discussion in the press of the country, is either hasty or inconsiderate.

Mr. Chairman, the things for which we are now contending are neither abstractions nor sentimentalisms; they are the right of trial by impartial, intelligent juries, the rock on which Anglo-Saxon liberty was built, and without which it cannot exist one hour, the last refuge of the citizen from the oppression of the Government and the tyranny of the judge; and the freedom of elections which has given that liberty the power to perpetuate itself in the vigor of perpetual youth.

Take these from our political institutions and you leave nothing worth preserving; you leave them "with a name to live while they are dead." These are rights which, as the gentleman from Ohio [Mr. GARFIELD] said of the Christian religion, "are too precious to be delegated to anybody." The States and their citizens must hold these against the Federal Government, or they surrender their liberties to its discretion. To require of jurors before they shall be permitted to enter the jury-box to take an oath which few honorable white men, born and resident during the late war between the States in any part of one large division of this Union, is to make of the trial by jury "a delusion and a snare," is to convert the most effectual safeguard of the rights of a free people into a wicked engine of oppression. To give to the United States Government the right to "keep the peace at the polls" is to give it the power to make, as it has made, that peace the "peace that reigned at Warsaw," a peace sweet to tyrants, but to the liberties of the people the peace of death.

But, Mr. Chairman, we on this side of the House are charged with attempting a revolution of the Government. Such a charge is unfounded and unjust, and the gentlemen on the other side mistake the credulity of the American people when they make it. We attempt no revolution, unless it be revolution by the peaceful methods of the Constitution, sanctioned by the precedents of past legislation in this country and approved by many examples set by both the existing political parties, to repeal laws that, by the confession of the best and wisest men on both sides of this Chamber, are now useless; laws which we and a majority of the American people believe are a standing menace to the existence of our free institutions.

Mr. KITCHIN. Mr. Chairman, I have listened attentively for several days with considerable interest and some surprise at the elaborate and well digested speeches delivered with so much zeal and earnestness on the other side of the House. If I may be permitted, however, I undertake to say that if you will divest the great number of words spoken of three prominent ideas cropping out through all of the several efforts of distinguished gentlemen to which this House has listened so patiently, you will find an immense number of Anglo-Saxon words gathered together, locked in beautiful grammatical phraseology, splendid diction, and with very little solid reason or merit. Most of what has been said on the other side is upon the hypothesis or prevailing idea that in the President is concentrated all the sovereign powers of the nation, and that this Government was founded and has been perpetuated for the sole benefit and shield of the republican party, and that no one not a member of that august body, and not on the stool of repentance asking admission therein, is entitled to the privileges, protection, and benefits of the constitution, and that the much abused terms "Government and Constitution" are only synonyms for "republican party and President." This is a very great mistake. In their passion and zeal for the success of the creeds and theories to which they are wedded, I fear they have allowed their prejudices to overbear their judgments. We have been charged on this side of the Hall as revolutionists. The charges or insinuations are utterly untrue in every sense of the word, as well as the charge that we have once attempted to shoot the Government out of existence and now we are attempting to starve it to death. I presume no intelligent gentleman on this floor will listen to such nonsense, not even the honorable gentleman who in the heat of debate gave utterance to such inconsiderate language. It is easy to comprehend the whole scope and scheme of the opposition to the measure now under consideration.

It has been recorded in history that the Southern States were reconstructed. If this is true, and I presume it will not be successfully denied, we have some interest and some reconstructed rights in the public administration of this Government. I make no distinction between northern and southern democrats because the honorable gentlemen include us all in the same category. We are a part of this Government, and have endeavored to act within the limits of the Constitution; nor have we claimed any extraordinary construction for that instrument, insisting and demanding that it shall be construed as its framers designed and as the best legal minds and ablest constitutional expounders have heretofore construed it. All this furor and fulmination about starving the Government out of existence and revolution is nothing more nor less than the dying agonies of a party who have already read the inscription upon the wall and who are now realizing that the scepter has departed from Judah and the law-maker from between his feet. Therefore it is not strange that they mourn and make known their deep grief in lamentations to their afflicted brethren who have been compelled by the uprising of an outraged people to relinquish their hold on the national heart from which they derived their life-blood. Neither to us nor to the country have the honorable gentlemen assigned reasons for their desperate efforts against this measure, save and except they say it is not the usual way of repealing statutes and therefore is "revolutionary" and strikes at the heart of the nation. This same clause proposed to be tacked to an appropriation bill was so tacked in 1865 to an appropriation bill and thus became a law, and nothing was heard of revolution then from our friends. The proposition is to repeal it in the same manner as it became a law.

Nothing was heard then from the other side of the House of its criminality and revolutionary tendency by becoming a rider to an appropriation bill; but now the eye that was blind can see the mote in the eyes of others with such perception and penetration as to magnify it into a mountain of monstrous proportions. Mr. Chairman, it is assumed upon the other side of the Hall that the Executive will exercise the veto power in case this bill should pass both Houses in its present shape, and that the result of such action will be to stop the whole Government machinery and thereby destroy the Government by withholding supplies. Unless the other side are in the secrets of the Executive they have neither a moral, legal, nor constitutional right to make such an assumption; but, upon the contrary, every presumption, legal, moral, and equitable, is against such a violent conclusion. Precedents, custom, right, justice, fair dealing, the Constitution, and his oath of office, are all against such an unreasonable and unjust assumption of power on the part of the President. On the other hand, if the Executive has informed his political friends that he will veto this bill, or has even intimated to them that such would be his policy, he is guilty of a great breach of courtesy to the legislative department and it smacks of dictation to the legislative

branch of the Government, and, if I mistake not, is in violation of the spirit of the Constitution and his oath of office. If no such information or intimation has been given a great injustice has been indirectly inflicted upon the President in the course of this discussion. To prevent an infringement of the Constitution and to prevent hasty and injudicious legislation it is his imperative duty to fall back upon this extraordinary power (veto) which was granted to him in the Constitution for these purposes and for no other.

But this grant of power has never been resorted to and exercised by any Executive to prevent the repeal of a law demanded by a majority of both Houses since the foundation of the Government, and I cannot believe any honest, intelligent man, who has been honored by promotion to the highest position in the gift of fifty millions of people, will so far disregard the will of the people and a majority of both Houses as to exercise this power for the purpose of thwarting, defeating, and contravening the will of the majority, for it could not in this case be used, I apprehend, for any other purpose, because from the very foundation to the key-stone, acknowledged and declared by both parties and every section, is the "majority rule." This is no unconstitutional or hasty legislation. It was thoroughly considered and canvassed by the last Congress, by the newspapers both North and South, and has been most earnestly, eloquently, and ably discussed and investigated by this Congress. Therefore I conclude there is no constitutional, legal, moral, or equitable obligation resting on the Executive to use the veto power to prevent the repeal of a law that found its way upon the statute-book in a time of great political excitement and emergency, when the Republic was just emerging from the most gigantic and stupendous civil and military strife recorded upon the pages of history or in the annals of the world; when brother had barely ceased to thirst for brother's blood, when section was arrayed and enraged against section, when wild fury and mad passion had been engendered by four years of fratricidal and internecine conflict, and when the Republic was extending its arms over mountain into valley, from lake to gulf, from ocean to ocean, to protect its citizens. These are the circumstances under which this act became a law, necessary it may have been then, odious and detestable it is now.

Should an Executive attempt to defeat the express will of a majority of the people without cogent and powerful reasons, he would appear more in the attitude of a tyrant dictating terms to a fallen and conquered foe than the chief ruler of a free and independent people. Should one man assume voluntarily, as it would be in this case, such grave responsibility as to stop the wheels of the Republic, and misfortune should follow, remorse would forever cling to his conscience, and a just and righteous verdict of a proud, intelligent, and independent people would consign him and his party to oblivion's retreat, where the hand of resurrection could never reach them. But it is none of our concern what the Executive will or will not do. Congress is the law making and repealing power, and the Executive the power to have them put into execution, with a supervisory power residing in the judiciary to see that they be constitutional. The honorable gentleman need not remind this House of the evil results that might flow from the anticipated act of the President; it will neither drive nor lead from an honest and faithful discharge of duty; we will perform our duty to the country and let them assume the responsibility of defeating the will of the majority and, if you please, as they say, destroying the Government. I plant myself on this rock and say, in the language of the valiant Fitz-James:

Come one, come all, this rock shall fly
From its firm base as soon as I.

These threats vanish like empty bubbles upon the air. It may be the eloquent, vehement, and threatening speeches made on the other side of the House are intended more to infuse political and party fire into the national mind, to madden and poison the national heart against democratic predominance, now in its infancy, as to this generation, and to aid in building up a centralized Federal power on this continent, than to convince this body that great wrong and outrage are about to be perpetrated by the predominant party. I will suggest to the honorable gentlemen who oppose this measure that such unfounded and pretended reasoning might not affect the great issues pending before the people, and it may not carry conviction to the intelligent, patriotic mind North, and that the gentlemen themselves are very serious in the wanton and defiant assertions as to the danger to the Union from this side of the Hall. Are there not on this side of the Chamber captains, colonels, and generals who stood in the foremost ranks of the Union Army, who were reared from the cradle to love, honor, and defend the Union? All this talk about revolution is sheer nonsense, thinner than moonshine. All that is asked is to strike out eight words from the statute to prevent the President from using the Army at the polls on the day of the election. We are told this would destroy the Government. Before this could happen national pride, national manhood, and national patriotism would sweep over this land of ours in a tidal wave and drive the President from the White House and this Congress from this Capitol. Some on this side of the Chamber have been courteously and adroitly reminded that in 1861 they attempted to destroy the Union, and that the dominant party compelled them to desist and return to their first love. This is very ungracious and uncharitable.

Gentlemen of the republican party do not deserve all the honor and

glory of a restored Union. Northern democracy, as I can testify, did as noble and gallant fighting as any troops ever did or ever could. As to myself I went with my State, to her I gave my services; for the part I took in the strife I have no apology to offer. But after the conflict ended you of the North restored us to the rights of our fathers, and we shook hands in forbearance and love, and agreed not to resurrect the buried memories of the unfortunate and bloody past, and to forgive and forget. In your efforts to save the Union you were actuated by noble and patriotic impulses; we were as honest and sincere. Time and history have demonstrated that you were right and we were wrong. Here the chapter ought to have ended. You declared the Union restored to its former glory and the war numbered with the things that had been. Now, if this is true, why with a fiendish hand reach forth to disturb the sacred bones of the honored dead? Let them sleep on where misfortune has laid them—

Till it shall be morn in the grave to bid the sleepers rise.

The uplifting in your distempered imaginations the bleeding and mangled forms of your noble and gallant dead will not prolong your lease of power. Providence in His inscrutable wisdom and unlimited mercy has decreed your downfall. You have been extremely disobedient to the commands of justice, and your final destruction has been long delayed to give room for repentance and reformation, but they came not, and you must pay the severe penalty of your many transgressions. The order has been issued by the voices of near fifty millions of people, and it would be more dignified and becoming to step down and out in silent submission and quietly surrender the control of the nation into other and better hands, who will be required upon conviction, after being tried and found wanting, to follow in your footsteps. You have our sympathies in your sorrows and lamentations over your lost fortunes, blasted hopes, and future uncertainties; but a stern sense of honor and duty to the Union of the States and to the verdict of the people and love for the Constitution constrain us to restrain our sympathy for our fallen brethren and dispense with or release you for a period at least from the responsibility of making laws, and bid you God speed in all that is great, noble, and glorious; and I trust, gentlemen, while you are in the minority, you will learn to follow that golden rule, so often departed from in this degenerate age, to do unto others as you would have them do unto you. And let me ask of you in your sober moments to ever remember that the bail you required of the South for her good behavior was excessive in the extreme, the fines you imposed upon us were intolerable, and the punishment you inflicted was both cruel and inhuman.

The honorable gentleman from Maine says Grant sent the southerners home from Appomattox saying, "behave yourselves and I will take care of you." Had we been put into the hands of the noble and gallant Union soldiers who met us upon a hundred hard-fought battlefields and measured strength and courage with us, the wounds and sores of the war would have long since been healed and forgotten. But we were placed in the hands of politicians who never encountered death nor shed any of their precious blood for the life of the Union. And what was the result? Morality, Christianity, intelligence, honesty, wealth, and experience were driven from the legislative halls, from the judiciary, the Executive Departments, and every other place of authority throughout the whole South, and there were substituted in their stead the very dregs and scum of northern and southern society, men without honor, virtue, or one redeeming trait of character, who organized the colored man against his former master and bound him in midnight conclaves under a solemn obligation to support the republican party, resulting in the alienation of the two races who ought to have been friends; and under the leadership of these unprincipled men, blood-suckers, and political buzzards was inaugurated the most gigantic scheme of plunder and despoliation throughout the whole South ever known in this country up to that time, and then General Grant's promise was fulfilled in the same spirit and manner in which the vulture protects the lambs, "covering and devouring them."

And the bad faith with which these carpet-baggers and scalawags acted toward the colored man caused him to spew them out of his mouth, and, thank God, most of them out of the States; and thus the respectable and honest colored men of the South lost confidence in the republican party, as it appears the whole country has; and these are the reasons why you have no party South, and why the South is solid. And another prominent reason why both Houses are democratic today is that the people, the fountain from which all power is derived, have discovered that the republican party, instead of giving them more freedom, was legislating away and usurping what they had, as is made manifest on this floor by every speaker on the other side of the House. If the doctrine be true, as claimed, that the President has power and that it is his duty to superintend the polls on election days with his Army, with his supervisors and sub-supervisors, and marshals and submarshals, in times of profound peace when there is not a hostile foot on the American soil, and that, too, without being called upon by the governors or Legislatures of the States, then, gentlemen, you had as well blot out the States from the maps of your country and have one consolidated government in name as well as in fact, and save the enormous expense of running thirty-eight State governments robbed of their authority and power and stripped of all their reserved rights. Then you will have what the other side of the House demands—a grand, consolidated military government hedged

in by the lakes and gulfs and the two oceans, with a platoon of soldiers in every neighborhood. I assert, without fear of successful contradiction, that there is but one constitutional way whereby the President of the United States can use the Army at the polls in any State, and that is at the request of the Legislature, or the governor if the Legislature cannot be convened in times of peace, or by the marshals under judicial process.

Mr. Chairman, the gist or gravamen of this measure hangs on the fourth article and fourth section of the Constitution of the United States, which reads as follows:

The United States shall guarantee to every State in this Union a republican form of Government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive, (when the Legislature cannot be convened,) against domestic violence.

Here is a State admitted in the Union under legal and constitutional forms, with a constitution not in conflict with the Constitution of the United States. She elects all her officers, from a constable to a governor. The machinery is put in motion; the day of the next election arrives; not a hostile foot presses her soil; but a riot takes place at the polls. Will any lawyer contend that the President, before the power of the State is exhausted, or before the governor or the Legislature, as the case may be, demands it, can send the Army to the State to quell it? If the State has at the time a republican form of government, then neither President nor Congress can constitutionally interfere unless the governor or the Legislature should request it, because the State has that which the United States has guaranteed—a republican form of government. As to the execution of the State laws the President has no power unless called on by the governor or Legislature. If such power was vested in the President, all any President would have to do to secure his own re-election or that of a friend would be to send troops to all the precincts or to enough to turn the scales and dictate how each elector should vote, and he need not do this in so many words, for bayonets speak a language, in the hands of soldiers, that cannot be mistaken. I am opposed to the bayonet rule. I want the military subordinate to the civil power, and unless that be so the rights of the people are gone forever.

The President of the United States has no power granted him in the Constitution to aid in the execution of State laws unless requested to do so by State authority, and when he attempts it he is without and above the Constitution and is a law unto himself, and at once becomes a usurper and a master instead of a servant. State laws are exclusively and absolutely under the control of State authority when they do not come in conflict with the Federal Constitution, and then they are void. Federal laws are under the absolute and supreme control of Federal authority and must be enforced by Federal officials just as State laws must be enforced by State officials. Neither can infringe upon the other; both are independent sovereign powers within their constitutional limits. All powers not expressly granted to the General Government are reserved to the people, and no power can be implied; and we find nowhere in the Constitution power given to the President to use the Army in the States, except in the fourth article, to guarantee a republican government and defend it against foreign invasion and, at the request of the State, against domestic violence. If it were otherwise, there would always be conflict between State and Federal authority. If the State law is violated, State courts take jurisdiction and punish; if the Federal law is broken, Federal courts do the same, and each is perfectly independent of the other. If the President has a constitutional right to keep the peace at the polls on election day with the Army, he has the same constitutional right to maintain the peace all over the States, and all the time; thus we would have two independent sets of officers at the same time to perform the same duty.

One more word and I am done. The gentleman from Tennessee asserted that the South was largely republican and if protected would send a republican delegation to this House. This is a mistake, and it is one of those of which Talleyrand says, "they are worse than crimes," a mistake which causes a southern man to call for soldiers to watch his fellow-citizens when they exercise the rights of freemen. And he seems very much outraged because he had no colored men from the South by his side. He lives in a large republican district in East Tennessee. Why did not the gentleman give us a living witness on this floor of the truth of his doctrine by staying home and sending a colored gentleman here to occupy his seat? He had the opportunity and power to do so. The honorable gentleman from Maine, [Mr. FRYE,] too, expressed great feeling for his absent colored friends. I say to the gentleman, set us the example by staying home and sending the colored brethren from your districts North and we will send five from the South for every one you send from the North. The great glory and beauty of our Government consists in its capacity to protect each and all its citizens upon its territory, and under its flag, without infringing the rights of any or encroaching upon the constitution of any State or violating its own. Our form of government stands today the wonder and admiration of the civilized world in consequence of its twofold character. When the relative rights of our duplex system of government are ignored or overborne by either the States or Federal Government, then American liberty will perish and the night of political chaos will come down and settle, it may be forever, upon the noblest and most hopeful fabric of human government ever reared by our race.

Mr. BRIGHT. Mr. Chairman, it is no very pleasant duty to travel over a burnt district of debate; but however unpleasant it may be to my feelings, I am impelled by a sense of duty to trespass further upon the patience of the committee. I do not think that any apology ought to be made for the debate which is now in progress. I feel sure that the people of this country will sympathize deeply in the discussion. I feel that they will be not only interested but instructed, and will be enabled to adopt a policy for the administration of this Government which otherwise they would not adopt.

I agree with the distinguished gentleman from Ohio [Mr. GARFIELD] as to the division of the political powers of the Government. Heretofore, in 1871, I stated the general theory that there are three great estates of power. The people, being the sources of all power, have delegated a portion to the State government, another portion to the Government of the United States, and have reserved to themselves the residuum. Without the expression of this power there is no vitality, no animation in this Government. Without the expression of this power there can be no State government, no Federal Government, no President, no Member of Congress. Power only departs from the people for a short time to return quickly at stated intervals. Within two years every member upon this floor will meet his political death. The power will return to the people. They have adopted a Constitution by which they have not only reserved but intended to retain that power in themselves. The Constitution which they have adopted is intended to act upon the legislative body, and the laws passed in pursuance thereof upon the great body of the people themselves. They are jealous of that power; they have not only put a short limitation upon it, but they have bound the consciences of members of this body with oaths. They have bound their President with an oath. They have clothed him with a veto power. Indeed, every facility has been resorted to in the machinery of the Government for the purpose of securing its fair administration.

With these preliminary remarks permit me to add that I do not propose to go back and discuss the causes of our unfortunate civil war. I believe with the great publicist, Mr. Halleck, with Vattel, and others, that after a treaty of peace and the cessation of hostilities the peace is to be perpetual, because there is no common arbiter who is authorized to decide the moral right or wrong of the cause of the quarrel. As I have studiously avoided heretofore any discussion of the grounds of dispute involved in the late war, I intend still to pursue that policy. I propose that there shall be a perpetual peace. I do not propose to tear the seal from the civil strife which has been healed. Were I to do so and invoke a renewal of our former strife I should feel myself as wicked as the man who would unbar the gates of hell and unchain the devil upon the earth.

But while this is so, it is not only proper, but it is a duty which we owe to ourselves and to the people, to inquire what is the true condition of the country and what should be the policy pursued in the faithful administration of the Constitution and the laws. This, Mr. Chairman, brings us to confront the question which is at this time before the Congress of the United States and the American people. It is simply a proposition to repeal a short clause in section 2008 of the Revised Statutes limiting the use of the military power of this Government at elections held under the authority of the laws of the States. Now, Mr. Chairman, I propose to address myself to the argument of this question. I propose to meet every proposition face to face and grapple with it in a fair and candid spirit.

It is asserted on the other side of the House that the repeal or modification of this law, as now proposed in the bill before us, is "revolutionary" in its character. I submit the proposition that if it be conceded that the law as it stands was a legislative act, that concession remits the right to a subsequent Congress for its repeal. It is not like the laws of the Medes and Persians, unchangeable and inflexible in character. If it be legislative in its enactment it is also legislative in its repeal. Does it require further argument to illustrate the proposition? Is there any revolution in it? I maintain that the charge of revolution is idle and unfounded, not to say puerile in its character.

But you say you object to the form of it. Why, Mr. Chairman, a single consideration will be sufficient to answer that proposition. Under the Constitution of the United States each body has the right to frame the rules for its own Government and for the transaction of its own business. They have exercised that right in the framing of their rules, both the Senate and the House. When the bill was introduced into this body prompt objection was made by the interposition of the rules, but by an able, clear, and unanswerable decision of the chairman of this committee it was ruled to be both germane and in order as tending to the reduction of the expenditures of the Government. From that an appeal was taken, and that appeal was decided against the appellant. If that be so, the form of the thing has been completely vindicated. It is legal in its form, and if there is any revolution in it the revolution rests in the heart of the Constitution. Surely Representatives will not insist that there is anarchy and revolution in the heart of the Constitution of their country.

Then, if it be legal so far as the legislative action is concerned, the will of Congress is a sufficient reason for the repeal of the act in question without further argument on the subject. And, so far as the merit of the question is concerned upon the charge of revolution, we might end the argument right here, but that it shall be fully and perfectly answered we propose to carry the war into Africa, and to answer

the distinguished gentleman from Ohio by *argumentum reductio ad absurdum*. In 1872, simply taking a sample of former legislation, while that distinguished gentleman was chairman of the Committee on Appropriations, one of these very laws which we propose to repeal by a "rider" upon an appropriation bill was appended to the sundry civil appropriation bill reported by himself, approved by the republican party, and approved by the republican President. And when the charge of revolution is made upon the one hand, we might, perhaps, echo it back upon the other side. You are answered by your own act, and your mouth must be shut.

But in addition to that, to show the recognition of the legality of the thing in 1876, the democratic party, following suit, introduced a proposition into the sundry civil bill proposing to repeal the whole of article 26 of the Revised Statutes, which embodies every one of these obnoxious measures of which we now complain. The motion was made to strike that out. Every republican voted to strike it out except Mr. Farnsworth, and every democrat voted to keep it in, just as they will vote to keep it in here to be consistent with themselves. They moved to strike it out in the Senate, and it was there stricken out only to come back to annoy the republican party, for there is a democratic majority not only here but in the Senate of the United States.

Without recurring to further details in relation to the history of this legislation, we have vindicated ourselves enough to show that the cry of revolution comes with an ill grace from those who are affected by the same faults which they charge upon this side of the House.

But to charge *reductio ad absurdum* upon the democratic party and to argue our insincerity in this legislation they refer to the act of 1865 and say that it was put there by the democratic party. That statement was left to go unexplained to the country. The distinguished gentleman who made the first charge did himself injustice, he did the country injustice, he did the record injustice, for he ought to have told the whole truth about it, and that the objectionable feature that was put there was the child of the republican party, the bantling they have nurtured into manhood. It was put there under the coercive power of a majority and accepted as a choice of evils. That is the whole of it; and when the explanation is made the wisdom and propriety of voting for that will be easily seen, easily understood. It was intended simply as a modification of the act of July, 1861, which conferred unlimited power over the Army, the Navy, and the militia upon the President of the United States in order to suppress insurrections, rebellions, and all sorts of conspiracies and combinations. In the exercise of that power it was supposed that he had transgressed the civil rights of the individuals. I know of an instance in the State of Tennessee. Under the authority of the President of the United States, Andrew Johnson was appointed military governor of Tennessee, and he issued a proclamation to hold an election changing the qualification of voters under the constitution of that State, prescribing different places from those fixed by law, unusual tests as qualifications of voters. There was a committee of distinguished gentlemen from Tennessee which came to see the President on the subject of modifying the order for the election. They laid before him the change of the whole election policy of the State of Tennessee, showing the election was in violation of its constitution, in violation of the constitutional qualifications of the citizens, putting extraordinary tests and oaths to them, so that many of the Union men of the State could not comply with the terms. The President had that matter under consideration. A friend of mine in this city visited him in the interest of that committee to influence him, if possible, to remedy the grievances of which complaint was made.

When asked in relation to it he replied with an anecdote. This Tennessee case reminded him of an old farmer out in the West who had cleared a piece of land, had cut down a large gum tree, had cut it up and disposed of it all except the butt cut; and that he could not split and could not burn; he could not haul it out of the way; but he knew what he could do; that is he could plow around it. And that is the way the President answered he would do in relation to the Tennessee case. The consequence was, an election was held there, but only one party was voted for; Mr. Lincoln for President, and Andrew Johnson for Vice-President of the United States; and McClellan and Pendleton received no votes at all.

So there were grievances complained of in Kentucky and grievances complained of in Maryland. These grievances were brought by the people, and they laid them before the Congress of the United States as they had a right to do and to say to the law-making power "The powers which you have conferred upon the President to suppress insurrection and rebellion were never intended to be exercised in the infringement of the civil rights of the people."

Mr. WHITE. Will the gentleman allow me to ask him a question? I want to know if there was a McClellan and Pendleton party in Tennessee at that time?

Mr. BRIGHT. Yes, sir. A number of distinguished gentlemen, the first citizens of the State, belonged to it. I have their names here.

Mr. WHITE. All right. Did they vote?

Mr. BRIGHT. They did not; and they told the President they could not vote because his Army was in possession of the ballot-boxes.

Mr. WHITE. Would they have carried the State if they had had the privilege of voting?

Mr. BRIGHT. That is a question the gentleman can answer as well as I can.

Thus, Mr. Chairman, you see that the reason of the act of 1865 is fully vindicated and the discussion so far is entirely cleared up to the satisfaction, we think, of every rational mind.

But, Mr. Chairman, I propose to take another step and come now to the merits of this controversy. Let us inquire into the constitutional relation of the Army to the Government. First, as to the existence of the Army. The Constitution says, in article 1, section 12:

Congress has power to raise and support armies; but no appropriation of money for that use shall be made for a longer term than two years.

There is your power to raise armies; there is the limitation upon the life of the Army. It cannot live longer than two years without the authority of this legislative body. Why was that clause put into the Constitution, and why the limitation? By that enlightened commentator upon the Constitution, Mr. Justice Story, and in an article in the *Federalist*, which I have before me, it is stated that it was put there expressly for the purpose of keeping the Army under the legislative power in this country. The appropriation may be for a less time than two years, but for not one day beyond it; and the limitation was put there for the purpose, as stated by Justice Story, of starving the Army if Congress saw proper to do it. It was put there as one of the great remedial powers of the Constitution when the Army should become a burden to the revenues of the country or threatened the liberties of the people to put an end to its existence by refusing supplies. I shall take the liberty of publishing the comment of Mr. Story and the remarks of Mr. Hamilton upon the subject which I have before me and which I have not time to read:

Thus, unless the necessary supplies are voted by the representatives of the people every two years the whole establishment must fall. Congress may, indeed, by an act for this purpose, disband a standing army at any time, or vote the supplies for one year or a shorter period. But the Constitution is imperative that no appropriation shall prospectively reach beyond the biennial period. So that there would seem to be every human security against the possible abuse of the power.—*Story on the Constitution*, section 1183.

But here again it was objected that the Executive might keep up a standing army in time of peace, notwithstanding no supplies should be voted. But how can this possibly be done? The Army cannot go without supplies; it may be disbanded at the pleasure of the Legislature, and it would be absolutely impossible for any President, against the will of the nation, to keep up a standing army in *terrore populi*.—*Story on the Constitution*, section 1184.

The Legislature of the United States will be obliged by this provision, once at least in every two years, to deliberate on the propriety of keeping a military force on foot—to come to a new resolution on the point and to declare their sense of the matter by a formal vote in the face of their constituents.—*Federalist*, No. 26.

But while this power was put there for that purpose we hope the contingency in this country will never occur when that power is to be exercised. We do not propose to starve the American Army; we do not propose to disband our legions; we simply wish to limit the use and the control of the Army to the legitimate objects of the Constitution of the country.

This brings us to the consideration of the proper use of the Army under the Constitution. By article 1, section 8, Congress has power "to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasions."

There is one of the great uses of the Army. By article 4, section 4, it is provided:

The United States . . . shall protect each of them [the States] against invasion; and on application of the Legislature, or the executive, (when the Legislature cannot be convened,) against domestic violence.

Now, this exhausts all the power conferred by the Constitution in relation to the use of the Army. Let us see, Mr. Chairman, what is the sum of this power, the military power of this country. It is, first, to execute the laws of the Union; second, to suppress insurrection or rebellion; third, to repel invasion. There are all the powers, and I do not find included in either one of these powers the power "to keep the peace at the polls." I do not find in the enumerated powers any clause which justifies the use of the Army for merely police purposes. Every State is presumed to have its own police officers. The necessity must be actual and not apprehended, and then by the consent and invitation of the State, for the exercise of a power greater than its own.

But our friends upon the other side of the House say that here is the great power conferred of "executing the laws of the Union." Now, Mr. Chairman, I invite attention to that provision. This confers no power to interfere with the elections of the country. These elections are the exercise and the result of a franchise which has been acquired by the citizen, and it is not the gift of the Federal Government. It is generally fixed in the organic law of the State in which the citizen resides, and its exercise is regulated by laws that are passed in pursuance of the organic law of the State which has conferred the right. Then if that be so, let us inquire whether Congress has any right to interfere with the exercise of this power, to prescribe any rules in relation to it, or to enforce any laws in relation to it which require the use of the Army.

Now let us see what are the powers of Congress in relation to these elections. I would state, however, in its proper connection, that Congress has no power over the qualification of the voter, as Mr. Justice Story has well considered in section 820, and which is as follows:

Nor can it be said, with correctness, that Congress can in any way alter the right or qualifications of voters.

Then, if Congress cannot alter or modify in any way the qualification of the voters, let us see what power Congress has over the elec-

tions of the country. What are these powers? By article 1, section 4, of the Constitution, "the times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law alter such regulations, except as to the places of choosing Senators." Now the times alluded to mean days; the places, the precincts; the manner, whether by ballot or by *viva voce*. There your power is exhausted. Does it require an army to declare the day of the election, the places of the election, or whether it shall be by ballot or *viva voce*?

No, the argument will not bear the touchstone of truth or reason. But, Mr. Chairman, I am coming up to the real debatable ground upon this question. I have stated the proposition as it was under the Constitution before the amendments. I propose to meet the question as it is presented after the amendments of the Constitution were adopted.

Now, Mr. Chairman, both these sections 14 and 15 have undergone judicial investigation; and by repeated decisions and by legislative action, too, here, it has been decided that they confer no new power upon the citizen.

Mr. WHITE. Will the gentleman allow me one question?

Mr. BRIGHT. Not now; I do not wish the line of my argument to be interrupted.

Mr. WHITE. I want to know about tissue-paper ballots.

Mr. BRIGHT. I will speak about that in the proper connection.

Mr. WHITE. Very well; I am glad to hear that.

Mr. BRIGHT. The only effect of this amendment was to enlarge the right or to confer the right simply upon the freedman, and to make him a freeman; to put the free-born and the freedman upon the same platform, and whatever rights the freedman had in relation to elections, the freedman should be entitled to the same.

The fifteenth amendment prohibits the denial of any right to the freedman "on account of race, color, or previous condition of servitude;" but this does not confer on the freedman any greater right than the freeman possessed antecedent to the amendment.

There is no complaint, no law of any State government, that is in violation of this amendment, but, on the contrary, they are in full harmony with it.

As to the power of Congress to legislate on voting at State elections I shall refer only to one decision, which is conclusive of the question. I read from 2 Otto, page 215, the syllabus of the case:

The power of Congress to legislate at all upon the subject of voting at State elections rests upon this amendment, and can be exercised by providing a punishment only when the wrongful refusal to receive the vote of a qualified elector at such elections is because of his color, race, or previous condition of servitude.

So, Mr. Chairman, when we trim down the election laws of the United States to fit the decision of the court there is but little left. Three acts have been passed in relation to those questions—the act of May 31, 1870, that of February 11, 1871, and that of June 2, 1872. Now I shall argue that these acts find no warrant in the Constitution of the United States.

Now, Mr. Chairman, I invite the attention of gentlemen to a few considerations upon this subject. I say that these acts are unconstitutional because they assume to confer a power on the Federal courts in regard to supervisors, marshals, registers of elections, and the electors themselves, and returning-boards, and even questions of fraud which may be committed in the exercise of the elective franchise.

Now, is there any power in the Constitution that authorizes this? Where is the power in the Constitution that authorizes Congress to interfere in the administration of State laws, laws which it did not enact itself and did not confer the rights of the citizen under them? It is nowhere to be found. I deny that Congress has the right to interfere with the administration of the laws of the State and with the rights of the citizen secured by the constitution of the State. Is it not an alarming stretch of power and jurisdiction to assert that Congress has the power to use the Army of the United States to enforce laws which it did not enact, and to control the exercise of rights which it did not and could not confer on the citizen? Yet, Congress has enacted laws for such purpose and has asserted control over the representative will of the people by its judiciary and Army.

Mr. HERR. Will the gentleman tell us how it is, if this be true, that you have not made a case and taken it before the court that has the power to settle the question of the constitutionality of the law?

Mr. BRIGHT. I have given you a decision that goes to the point, and goes to the point of the power of Congress, and it has been so decided in at least three well-defined cases.

Mr. Chairman, now as to the execution of the law; and I wish to call the attention of the House to it. Here are the United States marshals and supervisors charged with the execution of a part of the law. Under the original act of 1871 they are made the depositaries to a certain extent of the powers of Congress and the judicial power. They have the power of seizing upon the individual, holding him in duress, thus cutting him off from the dearest right known to the freeman. In the working of this terrible engine of oppression the United States marshal or the political partisan applies to the Federal judge and the judge to the President, and the President sends his Army to enforce judgments even on questions of fraud alleged to have been committed under the election laws of the State, not to suppress insurrections or rebellions.

Am I mistaken about it? Just listen to what President Grant said

in a message sent to the Congress of the United States on the 25th of February, 1873, in relation to the disturbances in Louisiana:

Controversy arose as soon as the election occurred over its proceedings and results, but I declined to interfere until suit, involving this controversy to some extent, was brought in the circuit court of the United States, under and by virtue of the act of May 31, 1870, entitled "An act to enforce the right of citizens of the United States to vote in the several States of the Union, and for other purposes." Finding that resistance was made to judicial process in that suit, without any opportunity and, in my judgment, without any right to review the judgment of the court upon the jurisdictional or other questions arising in the case, I directed the United States marshal to enforce such process, and to use if necessary troops for that purpose, in accordance with the thirteenth section of said act, which provides that "it shall be lawful for the President of the United States to employ such part of the land or naval forces of the United States, or of the military, as shall be necessary to aid in the execution of judicial process under this act."

So he put it upon the ground of executing the judicial processes of a Federal court, not of a State court. And, as I will show you from other extracts that I will read, he told you that under this same act his authority extended to frauds that were supposed to be perpetrated under and against the laws of the State governments.

The sum of this whole matter is that the Federal judiciary is resorted to for the purpose of construing and deciding upon the validity of the laws that are passed by a State regulating the elective franchise of its own citizens. In other words, the Federal judiciary is used as the fulcrum for the Army of the United States, as a lever to overturn State governments at the pleasure of the President of the United States as he did in the State of Louisiana.

I submit to the Congress of the United States, I submit to the whole people of the United States, that if the Federal judiciary is to be installed over the laws of the States and the rights of the citizens in the exercise of the elective franchise, and the Army of the United States is to be used to enforce the behests of the courts in every petty suit that may be engendered and got up, even to the overthrow of every State government and every officer under it, then American liberty is gone, ingulfed in the whirlpool of consolidated government. Its vast liberties are in the grasp of one man, who wields your Army as a warrior wields his battle-ax, to cleave down the liberty of the citizen and the government of the State.

It was the exercise of authority under this law which enabled the President to put the heel of his military boot upon the neck of Louisiana. It was that which enabled him to feel for the very heart-strings of freedom in the ballot-box. It was the exercise of that very power which you propose here to confer upon him which enabled him to station soldiers at the doors of the legislative assemblies and to decide who were elected your State legislators, who were your governors, when they had laws for the decision of all these questions before their own tribunals, and when you had no power over the subject-matter.

You begin to see and confront all these questions; you begin to see the antagonism of these powers; you begin to see the mighty circle of the whirlpool into which the liberties of the American people are now being drawn.

I have traveled over something of the history of this legislation. It all has its outgrowth from the misguided policy of the republican party. As this party has been held up as the party of "immaculate record," I propose simply to recur to a few of the acts of legislation. I shall refer to them simply for the purpose of showing the construction which has been put upon the Constitution of the United States by that party.

The force bills were first passed. One of them sectioned off the Southern States into military districts, disfranchised a portion of the people, enfranchised another portion, dismantled the judiciary, expelled the Legislatures, and established military tribunals in the place of civil tribunals. Now do not misunderstand me. I do not complain. I only refer to them to show you the construction that you Republicans placed upon your powers under the Constitution of the United States. You thought you had the right to do it.

Again, you passed a bill through both Houses here called the Freedmen's Bureau bill, which continued the military system but transferred the civil power and jurisdiction to some military tribunal in the South, striking at the right of trial by jury, digging it up entirely by the roots. That bill was presented to President Johnson, who took his stand upon the Constitution of the country and stood in the breach. When he understood the proposition he lifted the veto power and it descended like the red lightning of heaven and shattered it like a potter's vessel before the face of the people.

You thought it was all right. But he said afterward there was power enough conferred by that bill to have made him king or dictator of the American people. You were willing to lay all the thunders at his feet. If he had been corrupt and ambitious he might have used them to the destruction of American liberty. You thought it was all right. It was your construction of the Constitution thus to play and temporize with the liberties of the people.

Mr. HERR. I understand the gentleman to say that President Johnson vetoed that bill?

Mr. BRIGHT. I suppose everybody knows that.

Mr. HERR. Very well; did he have the right to veto it?

Mr. BRIGHT. I will say that he did, and I think his veto message will stand as one of the proudest monuments on the plane of human liberty.

Mr. HERR. Then suppose President Hayes thinks that the laws you are about to pass are vicious and unconstitutional—

Mr. BRIGHT. Then let him veto them.

Mr. HERR. He should do that?

Mr. BRIGHT. Yes, if he thinks them unconstitutional.

Mr. HERR. Then do you agree with the declaration made this afternoon on your side of the House that if President Hayes should veto these bills you will stay here for two years—

Mr. BRIGHT. I am not answering for any one else. I do not believe that this legislation is unconstitutional.

Mr. HERR. Wait until I finish my question.

Mr. BRIGHT. I cannot yield any further.

Mr. HERR. But suppose—

Mr. BRIGHT. I will not yield.

You suspended the writ of *habeas corpus* in a time of peace, or rather you conferred the power upon the President to do it, that ancient writ imported into this country, the boast of all Englishmen, the triumph of Rungmede, the result of its victories. You placed it entirely in the hands of one man. You gave him power to suspend the civil functions of every State of this Union, when your governors should sit powerless, when the judges upon the bench should sit powerless, when your marshals and your civil authorities were paralyzed as dead men and under the heel of a single man. This act was described by Mr. Trumbull as a State annihilator. You were willing to intrust all this power to one man.

Then follow the election laws, now under consideration, making Federal judges and supervisors the supreme authority with reference to the conduct of elections—assuming omnipotent powers over State laws and State officers.

These were the laws you thought you had a right to pass under your construction of the Constitution.

Now, Mr. Chairman, permit me to go a step further and show the manner in which these laws have been executed. Just before the presidential election of 1876 an order, which I have before me, was issued by the Secretary of War, notifying the commanding general to have all the troops that could be spared from our bleeding frontier in readiness for calls to be made from other places. In obedience to such call forty-five hundred troops were marched into South Carolina, Florida, and Louisiana. Why were they marched there? Why the roll of the drum, why the piercing notes of the fife, why the tread of armed legions, why the glittering of bayonets? Where is the hostile foe, where the embattled ranks? When that call was made and that order issued where was the pretext that there was any insurrection or rebellion? Look at the date. At that time you could not find a single hand lifted against the authority of the State or of the United States. We all knew the meaning of the movement. Those troops were marched into Louisiana and other States—down-trodden Louisiana whose government was overthrown. Desperate as the symbolic bird on its own escutcheon, which it is said will tear the flesh from its own breast to feed its brood, the people of that State were determined to make the last struggle. Pressing between the glittering bayonets of Federal power sent there to intimidate them, they deposited nearly 7,000 majority for Tilden and Hendricks.

Mr. HERR. Does the gentleman refer to the time—

Mr. BRIGHT. I cannot yield. When it was understood that Tilden was elected and the shouts of our people were making the welkin ring for joy, then upon the wires extending all over this land, the delicate nerves of the lightning, there came the whisper, "Though Tilden is elected Hayes shall be counted in." We find that soon after that time fourteen companies of troops were ordered to Tallahassee, Florida, beside others to Louisiana. Here are the instructions of General Grant to General William T. Sherman:

Instruct General Augur in Louisiana and General Ruger in Florida to be vigilant with force at their command to preserve peace and good order and to see that the proper and legal boards of canvassers are unmolested in the performance of their duty. Should there be any grounds of suspicion of fraudulent count on either side, it should be reported and denounced at once.

There you have it. Here are your sentinels, here are the dragon coils of the American Army thrown around a returning board as it sits in incubation to hatch a President of the United States. Glorious duty for the American Army, watching to see if any fraud is committed! No insurrection, no rebellion, no pretense of anything of that kind! I hardly know how to restrain my sense of indignation when I contemplate this humiliating office imposed upon the Army of the United States. I believe that if I were an officer in command, before I would perform this degrading duty I would tear the epaulets from my shoulders, and I would snap the sword over my knee, and would return it to the Government that imposed such humiliating duty upon the Army of the United States.

What is the result of all this? It shows that the policy, the maxims, the practices of war are incompatible with a state of peace; that force and freedom cannot dwell together; that between them is an "irrepressible conflict;" that one or the other must yield; and it is for the American Congress to say whether they will reinstate the civil authority over the military.

I am sure that the honorable gentlemen who lead our armies desire not the performance of such duty. I know that there was one who refused to perform it unless the law strictly compelled him to do so.

A MEMBER. Name him.

Mr. BRIGHT. I refer to General Hancock, whose name is illustrious, who honors the profession of the soldier.

This interference of the military with elections is a menace to the liberty of the people, extending not to one section merely. When a

blow like this is struck at free elections in Louisiana the rebound is felt in New York and Indiana; it tells upon the destiny of the whole country. The fraudulent or violent change of one State may carry the presidential election and all the patronage and power which belongs to the office. And this claim is not yet abandoned. We were told to-day that if we would give them the Army republicans would come from the South and fill these seats. Great God! Is the admission solemnly made here that you wish the Army of the United States to be used merely as an appendage of a political party, that your tenure of office must be maintained by force, not by the merit of your principles? Has the startling truth leaked out the republicans want the Army at the polls not "to keep the peace," but to keep their place in power? If the Army and supplies are granted to them now, when will we see the end of the exaction?

Have your principles been so much condemned by the American people that they will not stand the test, but that you must hold the fort, hold the fort by the military arm of the Government? Ay, gentlemen, you have not given it up. The man it is said is in training abroad now; he has been feasted and ovated in Europe by the bondholders and creditors of the United States who wish a strong Government to chain the people down to their dungeon floor and to flay them with taxation, and in response to their complaints to give them the bayonet. Under the instigation of those men you will find that there is a candidate in training for the presidential race. He will land at the golden gates of the Pacific; he will find a splendid palace car to receive him and will be met by shouting thousands. They will shout hosannas to the returning hero; some perhaps so abandoned they will throw up their hats and render homage to an American Caesar.

You say, "Is thy servant a dog, that he should do this thing?" Hazeel said that to Elisha, the prophet, when Elisha wept and told him the desolations and horrors he should cause when he should be king. He said, "Is thy servant a dog, that he should do this great thing?" Yet he went home, and the first thing he did was to murder the king, to overturn the government, and thrash the nation into dust. Of ambition the poet has said:

Ambition hath one heel nailed in hell,
Though she stretch her fingers to touch the heavens.

It lifted itself against even the sovereignty of Heaven. Nothing can ever satisfy its rapacity for power.

Mr. WHITE. I wish to ask the gentleman does he not think that General Grant would make a good candidate for the Presidency?

Mr. BRIGHT. When we say that this country ought to be released from its thralldom we are met with the cry, "Rebellion!" "Rebellion!" like old Hook crying "Beef!" in the Revolution. You raise the bloody flag, and think the whole northern heart will be inflamed. You think it will be like the cocked hat of Napoleon, which when raised upon a pole would cause all Europe to rush to arms. You think you can muster your forces all around the bloody flag with your howl of "Rebellion!" I tell you no; you cannot deceive this people longer by the empty howl. They must have some other pabulum. They are looking forward to the future. They are cutting loose from the dead body of the past. There is a future with its splendid anticipations before them, and they will look to that party, support that party, to carry out the great measures of reform and relief that are to bring prosperity to this country.

Now permit me in my concluding remarks to sum up a few facts. In the first place, if the republican party has had a mission, that mission is at an end. If its mission was to emancipate the slave, to strike the yoke from his neck and the manacles from his hands and to restore the Union, those objects are now accomplished facts, and there is no further need of the party.

Another conclusion is, the maxims and practices of war are inconsistent with a state of peace, and they cannot dwell long together. Peace is the normal condition, war the abnormal; and when the causes of war have passed away, there should pass away also the force and the power which are inimical to peace. Force and freedom cannot exist together.

To sum up the great argument in a few words: The republican party have been in power, and it is now fourteen years since the close of the war; and when we look over this country we see a perfect paralysis of every industry; we see the land filled with tramps, with complaints upon the lips of the people. The fires of your mills have been put out. We find that there are rings and monopolies, a bond-ridden, bank-ridden, tariff-ridden, tax-ridden, poverty-ridden, and monopoly-ridden people, all crying for relief. Here is a prostrate country at your feet, and its condition cannot be laid at the door of the democratic party. Your administration is condemned. "Mene, mene, tekel, upharsin!" is written upon the wall. Your days are numbered; your power will pass; weighed in the balances, you are found wanting. You have your grasp upon the throat of this country, holding on by the military power. But, sir, the representatives of the people, not the democrats alone, are wrenching your fingers loose one by one, one by one, until the agonizing country shall be released from your grasp of power.

But, Mr. Chairman, one word more. We know that the party on the other side of the House dies hard. It is the fate of parties. We have had to die. There is a resurrection day, however, and we have touched our mother earth and arisen like the earth-born giant. You are now the party overthrown.

Mr. FISHER. Will the gentleman allow me to ask him a question? Inasmuch as his time has expired, I think he will yield long enough for me to ask him a question?

Mr. BRIGHT. If it will be any accommodation to you I will do it.

Mr. FISHER. I would suggest to him to state, in connection with other matters that he has stated, that his State is now repudiating and cheating northern men of money due them.

Mr. BRIGHT. The State and the people will take care of that themselves; but then if what the gentleman states is true, does that justify you in destroying the liberties of the people of this country with the Army? Does it? [Applause.] If the State is prostrated and run down, and if a policy has been inaugurated here that is grinding down not only the people, but grinding the State to powder under your oppressive administration, is it any excuse to say that the State of Tennessee is unable to pay its debts?

Mr. FISHER. The gentleman was remarking that the republican party is dishonest.

Mr. BRIGHT. I did not say dishonest. Do not put words into my mouth that I did not use.

I do not care to go into the question of the debt of the State of Tennessee. The people of my State will take care of their own honor. The validity of some of the bonds has been called into question. The State is now negotiating for the purpose of settling that debt, and I suppose the State is quite capable of taking care of that question itself.

Mr. WHITE. At forty cents on the dollar.

Mr. BRIGHT. The democratic party has a destiny before it. It has come up. It is here. It is animated and encouraged by the people and it proposes, sir, to do something for their relief. First of all, to save the Constitution of the country, and then to administer relief, just and equitable, under its provisions. It proposes to strike the shackles of military power from the States and the people. It proposes to give them relief from a policy under which they are ground down. It will endeavor to make the whole land murmur like a vast hive of industry, and the seas blossom with our sails. It will endeavor to break through the tariff blockade, and give free course to our commerce among the nations.

Mr. WHITE. I want to ask the gentleman if he is opposed to the present tariff in which Pennsylvania is interested, on account of the protection it affords to its industries?

Mr. BRIGHT. I would put the pruning-knife into your tariff system. I would reform your internal-revenue system. I would relieve the people of your State.

Mr. WHITE. Does my friend from Tennessee [Mr. BRIGHT] know that under our tariff policy the iron industries of my great State have given employment to much labor, thereby aiding to relieve us from tramps, and that now our industries are looking better and reviving? If he does not know it, I as a Representative from Pennsylvania who have some knowledge of these interests do understand it.

Mr. BRIGHT. Oh, I understand the policy of your State very well. I have not time to go into that.

Mr. WHITE. I beg pardon; but if the gentleman from Tennessee is opposed to the protective system he does not understand the politics of my State nor the interests of its people.

Mr. BRIGHT. The politics of your State have nothing to do with my political convictions.

Mr. WHITE. The gentleman says he is going to relieve the country when the democratic party comes into power by destroying the infamous tariff.

Mr. BRIGHT. I did not use the word "infamous" at all.

Mr. WHITE. You called it "despotic and oppressive and robbing," which are synonymous terms. I want the people of my State to understand that a representative democrat publishes such sentiments to the country, that he would cut up our tariff system. That is the relief he intends to give if the democratic party under his leadership gets into power.

Mr. BRIGHT. I cannot enter into a discussion of that question. The remark I made was only incidental. I have discussed the question before this body. My views have not been concealed, and if the gentleman wishes to know them he will find them on record. So far as that question is concerned, I believe there ought to be a reform in our revenue and financial systems, so as to give relief to the suffering thousands and hundreds of thousands of people in the gentleman's State who have been made tramps.

Mr. WHITE. You will never do it by reducing the protection on our iron.

Mr. BRIGHT. That protection never was given by democratic policy. It lies at your own doors. The democratic party had nothing to do with it.

Mr. WHITE. I tell the gentleman in reply that we as republicans are proud of the existing tariff policy of the country and have no apology to make for it, and we will resist the substitution of a free-trade policy therefor.

Mr. BRIGHT. If it is the pleasure of the committee to indulge me in speaking on the subject of the tariff, I will do so.

Mr. WHITE. How long does the gentleman want?

Mr. BRIGHT. Let me speak upon it.

Mr. WHITE. A couple of hours?

The CHAIRMAN. The time of the gentleman has expired.

Mr. BRIGHT. I do not desire to detain this committee. I would

have been through long ago but for the interruptions of these gentlemen.

Mr. WHITE. I beg the gentleman's pardon.

Mr. BRIGHT. I am now proceeding by courtesy of the committee.

Mr. WHITE. We are very glad to give it to the gentleman. I recognize the gentleman as an able lawyer and a representative democrat; therefore I like to emphasize his utterances upon this modification of the tariff. I would like to hear him upon the free-trade doctrines which he thinks will restore prosperity to this country.

Mr. BRIGHT. I will send the gentleman a copy of one of my speeches on that subject, which will fully inform him.

Mr. WHITE. We are too busy now to read old speeches.

Mr. BRIGHT. My time is up. I do not desire to trespass further upon the patience of the committee. I do not often trouble the House. I have this to say, that I am none the less thankful for the indulgence which has been extended to me.

I have only this further remark to make about the democratic party. We will have freedom when that party is restored to power, when it comes back with all its reforms. The country will then be restored to all its constitutional rights. To paraphrase the eloquent passage from Curran—the country will stand forth redeemed, regenerated, and disenthralled by the irresistible genius of American liberty.

Mr. MANNING. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. REAGAN having taken the chair as Speaker *pro tempore*, Mr. SPRINGER reported that, pursuant to the order of the House, the Committee of the Whole had had under consideration the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. WHITE. I move that the House now take a recess until eleven o'clock to-morrow morning.

The motion was agreed to; and accordingly (at ten o'clock and twenty minutes p. m.) the House took a recess until eleven o'clock a. m. to-morrow.

AFTER THE RECESS.

The recess having expired, the House reassembled at eleven o'clock a. m., (Friday, April 4.)

ARMY APPROPRIATION BILL.

Mr. WHITTHORNE. I move that the House now resolve itself into Committee of the Whole on the state of the Union for the further consideration of the Army appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. SPRINGER in the chair.

The CHAIRMAN. The House is now in Committee of the Whole, and resumes the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

Mr. MCCOID. If no other gentleman desires to occupy the floor at this time, or is entitled to it—

The CHAIRMAN. The gentleman from Mississippi [Mr. SINGLETON] is entitled to the floor.

Mr. SINGLETON, of Mississippi. Am I to be forced to make a speech this morning, before my time has arrived?

The CHAIRMAN. The gentleman's time has arrived.

Mr. SINGLETON, of Mississippi. Of course the chairman has a right to insist upon my taking the floor now, and if he does so I will proceed; but I protest against it.

Mr. WHITE. I made the motion last night for a recess until this morning. I did so after consultation with the gentleman from Mississippi, [Mr. SINGLETON,] and my understanding was that some gentleman on this side who desired to speak would be allowed to occupy twenty minutes of the hour.

Mr. SINGLETON, of Mississippi. What hour? My hour?

Mr. WHITE. Yes, sir.

Mr. SINGLETON, of Mississippi. Oh no, sir.

Mr. WHITE. That was my understanding.

Mr. SINGLETON, of Mississippi. The understanding I had from the chairman of the Committee of the Whole himself was that the first hour was to be given to gentlemen on that side of the House, and I was to be recognized for the next hour. I find, however, that this morning the order has been changed.

Mr. WHITE. No, sir; the order is not changed at all.

Mr. SINGLETON, of Mississippi. I did not say that you had changed it.

Mr. WHITE. I know there can be no difference of recollection as to the facts. The gentleman from Mississippi [Mr. SINGLETON] did not want to speak last night, and asked me to move a recess. I was perfectly willing to do so.

The CHAIRMAN. The gentleman from Mississippi has the floor.

Mr. MCCOID. I am perfectly willing to take the floor at this time if the gentleman from Mississippi desires it.

The CHAIRMAN. The gentleman from Mississippi is entitled to the floor.

Mr. MCCOID. Then I will ask the gentleman to yield twenty minutes of his time to me.

Mr. SINGLETON, of Mississippi. I would be very glad indeed to do so if I could get through with what I have to say in less time than an hour. I must state again to the other side of the House that according to the arrangement which the Chairman announced it was understood that if there was any republican who wished to occupy the hour this morning after the recess, or to occupy it last night, he had the privilege to come in before me. That was the understanding with me. Now I find this morning that the arrangement has been changed. I did not expect to give any portion of my time to any one on the other side of the House, because if any part of it should be left I have promised it to gentlemen on my own side. I would be very glad to accommodate gentlemen on the other side if I could, but it is not in my power to do so. I am perfectly willing, if the Chairman will allow it, that the gentleman from Iowa should go on for twenty minutes or even longer; and I will take my hour when he gets through.

The CHAIRMAN. In less than one hour from now the Committee of the Whole must rise and the House begin the legislative session of Friday.

Mr. WHITE. If the gentleman from Mississippi is disposed to leave the matter to the Chair, the Chair will doubtless protect the gentleman beside me, who desires to submit some remarks.

The CHAIRMAN. The Chair desires to protect the rights of all gentlemen, but the time for general debate is now limited, and it is impossible for every gentleman to occupy the time that he may desire. The gentleman from Mississippi will proceed.

[Mr. SINGLETON, of Mississippi, addressed the committee in remarks which, not having been concluded when the committee rose, will be found complete in the proceedings of Friday, April 4.]

Mr. GARFIELD. I interrupt the gentleman from Mississippi only to suggest that the committee rise in order that we may have an adjournment, and that the session of Friday may begin.

Mr. SINGLETON, of Mississippi. The Chair will please note how much time I have left.

The CHAIRMAN. The gentleman has five minutes of his hour remaining.

Mr. MILLS. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. CLYMER having taken the chair as Speaker *pro tempore*, Mr. SPRINGER reported that, pursuant to the order of the House, the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. CARLISLE. I move that the House now adjourn.

The motion was agreed to; and accordingly (at one minute before twelve o'clock a. m.) the House adjourned.

PETITIONS, ETC.

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

By Mr. ATKINS: Papers relating to the war claims of James N. Hunter, Miles M. Hammond, and Mrs. S. Callaway—to the Committee on War Claims, when appointed.

Also, papers relating to the claim of E. A. Collins, administrator of W. P. Collins, deceased—to the Committee of Claims, when appointed.

By Mr. BEALE: Papers relating to the war claims of Arthur Ashton, Henry C. Browner, and Allen T. Callahan—to the Committee on War Claims, when appointed.

By Mr. BICKNELL: Resolution of the Legislature of Indiana, asking that the national banking law be amended so as to require national banks to sue in the State courts in certain cases—to the Committee on the Judiciary, when appointed.

By Mr. CHALMERS: Papers relating to the war claim of Allen E. Anderson—to the Committee on War Claims, when appointed.

By Mr. CRAVENS: Papers relating to the war claims of Mrs. Anna M. Cogswell, Jeremiah F. Dorris, and Elizabeth J. Hampton—to the same committee, when appointed.

By Mr. DUNN: Papers relating to the war claim of James M. Barker, and Elizabeth B. Higgins, Joel Higgins, and Brand Higgins—to the same committee, when appointed.

By Mr. FORNEY: Papers relating to the war claim of William H. Huff—to the same committee, when appointed.

By Mr. HOOKER: Papers relating to the war claims of Harriet J. Carey and A. H. Gardner—to the same committee, when appointed.

By Mr. HOUK: Papers relating to the war claim of Theodore T. Coffin—to the same committee, when appointed.

By Mr. LEWIS: Papers relating to the war claims of George C. Arrington, John Belcher, and William T. Hamner—to the same committee, when appointed.

By Mr. LORING: The petition of the Baptist church of Peabody, Massachusetts, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary, when appointed.

By Mr. LOWE: Papers relating to the war claim of Hamilton F. Arthur—to the Committee on War Claims, when appointed.

By Mr. MANNING: Papers relating to the war claims of Jordan Broadway, Calvin Cheairs, Hugh Davis, Nancy Garison, John A. Gwin, and the estate of Thomas S. Hardaway, deceased—to the same committee, when appointed.

By Mr. MARTIN, of North Carolina: The petition of citizens of North Carolina, for an appropriation to dredge Ocracoke Swash—to the Committee on Commerce, when appointed.

By Mr. McMILLIN: Papers relating to the war claim of S. E. Belcher—to the Committee on War Claims, when appointed.

By Mr. MULBROW: Papers relating to the war claims of Andrew Cathay and J. W. Cansey—to the same committee, when appointed.

By Mr. O'NEILL: The petition of Frederick Heideimann, for an increase of pension—to the Committee on Invalid Pensions, when appointed.

By Mr. PERSONS: Papers relating to the claim of the estate of S. H. Hill—to the Committee of Claims, when appointed.

By Mr. SIMONTON: Papers relating to the war claims of Volney S. Alston, James A. Bowling, Needham Branch, and John J. Hill—to the Committee on War Claims, when appointed.

By Mr. SINGLETON, of Mississippi: Papers relating to the war claim of William L. Clearman—to the same committee, when appointed.

By Mr. STEELE: Resolution of the Legislature of North Carolina, favoring an appropriation for the improvement of Cape Fear River, the making of Fayetteville, North Carolina, a port of entry, and the making the navigation of Cape Fear River free—to the Committee on Commerce, when appointed.

Also, resolution of the Legislature of North Carolina, favoring an appropriation for the improvement of Waccamaw River—to the same committee, when appointed.

Also, resolution of the Legislature of North Carolina, favoring an appropriation sufficient to clear out and deepen Currituck, Croatan, and Pamlico Sounds, and Neuse and Newport Rivers—to the same committee, when appointed.

Also, resolutions of the Legislature of North Carolina, relative to the improvement of the rivers of said State—to the same committee, when appointed.

Also, resolution of the Legislature of North Carolina, favoring the establishment by the General Government of two universities in the South, one for the education of white and the other for the education of colored youths, free of charge, and that \$1,000,000 be appropriated for the establishment of each university—to the Committee on Education and Labor, when appointed.

Also, resolution of the Legislature of North Carolina, favoring an appropriation to make Lumber River navigable—to the Committee on Commerce, when appointed.

By Mr. URNER: The petition of John Dillinger, for a pension—to the Committee on Invalid Pensions, when appointed.

By Mr. YOUNG, of Tennessee: Papers relating to the war claims of Mrs. Emma G. Abbott, Abbie P. Anderson, Richard L. Andrews, A. G. Bankhead, William E. Barnett, Reuben B. Bass, John Bateman, George W. Beasley, Mary Beasley, John H. Bills, Mrs. Mary P. Bradford, Rosanna H. Black, Clara E. Bryan, Charles C. Burke, (administrator, &c.), Washington G. Campbell, Juliet Campbell, Emmarilla J. Carr, Paul A. Cicalla, Robert H. Cleere, Mrs. Martha C. Cole, Benjamin Coleman, Ann E. Connell, (executrix, &c.), Henry C. Dallis, Carson R. Dalton, Alfred H. Darden, Wiley J. Davis, Samuel H. Dunscomb, W. W. R. Elliott, Lucy E. Dowdy, John A. Farley, Rosetta Freel, John O. Graves, William B. Hamlin, Delas A. Harrell, James A. Henry, David H. Hildebrand, Indiana E. Hughes, and Fannie T. Hunt—to the Committee on War Claims, when appointed.

Also, papers relating to the claims of Mathias App, Benjamin Babb and others, and William G. Ford, administrator of John G. Robinson, deceased—to the Committee of Claims, when appointed.

HOUSE OF REPRESENTATIVES.

FRIDAY, April 4, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

INSTITUTION FOR DEAF AND DUMB—SMITHSONIAN INSTITUTION.

The SPEAKER. The Chair desires to state that he has received a communication from the officers of the Columbia Institution for the Deaf and Dumb, and also a letter from the Board of Regents of the Smithsonian Institution, asking that he make immediate appointment of directors for the first named institution and of regents to the latter. In accordance with this request the Chair announces the following appointments:

Directors of the Columbia Institution for the Deaf and Dumb: JOHN T. HARRIS, of Virginia, and WILLIAM CLAFLIN, of Massachusetts.

Regents of the Smithsonian Institution: HESTER CLYMER, of Pennsylvania; JOSEPH E. JOHNSTON, of Virginia; and JAMES A. GARFIELD, of Ohio.

In this connection the Chair desires to state that the gentleman from Georgia, [Mr. STEPHENS,] who has been a regent of the Smithsonian Institution, absolutely declines to serve further as such, because, owing to the state of his health, he is unable to attend the sessions of the board.

ARMY APPROPRIATION BILL.

Mr. SPARKS. I move that the House resolve itself into Committee of the Whole to proceed with the consideration of the Army appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole, (Mr. SPRINGER in the chair,) and resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The gentleman from Mississippi [Mr. SINGLETON] has five minutes of his time remaining.

Mr. SINGLETON, of Mississippi, resumed and concluded his remarks. The following is the complete speech:

Mr. Chairman, I am glad we are confronted to-day with the grave question, whether as a legislative body representing the will of the people we have the courage and determination to strike from the statute-book certain iniquitous laws placed there to control elections in the interest of a political party, or whether we will falter and come short of our duty to the country.

But a few weeks ago, when a repealing clause to effect this end was attached to an appropriation bill in this House, the republican Senate denounced our action as monstrous and revolutionary, and called into being the present session of Congress rather than yield to the voice of its popular branch. We are now in the second act of the performance, with a partial change of the *dramatis personæ*, with no side issues to settle, with no controverted points of courtesy between the two Houses, and, better still, with no constitutional inhibitions blocking our way. We are left to inquire whether it is necessary and proper to free and fair popular elections: First, that United States troops be stationed at ballot-boxes while the voting is going on; Secondly, whether supervisors and deputy marshals of the United States shall exercise plenary powers in deciding upon infractions of the election laws and in making arrests for the same; and, thirdly, whether jurors called to try prisoners so arrested shall be required to take what is familiarly known as the "iron-clad oath."

These are the three points upon which the two Houses of the last Congress failed to agree, and which now press for consideration and settlement. I propose to consider them in the order named, if I can have the indulgence of the House, and that they may be properly understood I will give the full text of the acts relating to each.

TROOPS AT THE BALLOT-BOX.

First, then, as to the use of troops at the ballot-box. The act reads as follows:

SECTION 2002. No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, or to keep the peace at the polls.

The only warrant, power, or authority under which the President, any head of a department, or military commander has assumed to act in stationing troops at any ballot-box during any election, general or special, in any State, is derived from the last eight words of the section quoted, namely: *or to keep the peace at the polls*. And yet during the late administration, where there was no disturbance at the polls, while peace and order reigned supreme, troops were sent, at the caprice of the President or the solicitation of political managers, to any voting precinct in the country, city, or village with intent to intimidate and drive from the polls unoffending citizens whose political opinions did not suit the party in power. The baleful effects of this practice are familiar to every one. I will not stop to enumerate them.

It may be said, and truthfully too, to the honor of the present Administration, that since its inauguration no troops in a military capacity have been permitted at any voting precinct, and that in consequence the law has fallen into disuse and become a dead letter. If this be true, then why not repeal it? The present Chief Magistrate of the United States may regard the law with disfavor, as the mass of private citizens unquestionably do, but who can forecast the views of his successor and give any guarantee that the scenes and incidents of the late Administration will not be repeated? Already the clans are gathering at the bugle-blast of their chieftains to enter again upon the work of misrule and spoliation. The country, in a spasmodic effort to rid itself of the leeches and vampires who were sucking its life-blood, drove into retirement certain individuals, but now again they emerge from their banishment, fasten themselves upon the body-politic, and are ready to satiate their appetites with illicit power and plunder. The return of certain men to political life bodes no good to the Republic. Coming events cast their shadows before them, and it behooves us to remove all obstructions to a full and fair election in 1880. This act with others must be repealed, or it is vain to talk of carrying out the popular will at the ballot-box.

But, Mr. Chairman, there is a side to this question which calls for yet more earnest thought and calmer consideration. I refer to the constitutional power of Congress to enact such a law. I know it is the habit of a certain class of politicians of the present day to indulge a derisive sneer whenever reference is made to the Constitution. But grave questions affecting the construction of that instrument and the rights of the people growing out of it are not to be settled by a mere grimace or toss of the head.