STATEMENT

OF A FEW OF THE

POINTS IN THE CONTEST BY A. C. BALDWIN

Of the Fifth Congressional District of Michigan,

FOR THE SEAT IN THE THIRTY-NINTH CONGRESS,

OCCUPIED BY R. E. TROWBRIDGE.

To The Honorable, the Committee on Elections:

In contesting the seat now occupied by Hon. R. E. Trowbridge, it is proper for me to present for your consideration, the facts of my case, and the points upon which I rely. The facts will be undisputed, leaving it for the committee only to apply the law to those facts, and award the seat to the one producing the better title.

In November, 1864, an election was held in the Fifth Congressional District of Michigan, comprising six counties, with the following result:

	For Baldwin.	For Trowbridge.
Oakland County	3,802	3,746
Macomb "	2,177	2,054
St. Clair "	2,064	1,818
Sanilac "	317	755
Lapeer "	1,248	1,471
Livingston "	1,985	1,624
	11,593	11,468

giving Baldwin a majority of one hundred and twenty-five. The legality of these votes is not questioned by Mr. Trowbridge, but he claims that at the same election, at various places outside of and beyond the limits of the State of Michigan, he received the votes of several hundred soldiers, thus overcoming the majority of Baldwin on the home vote, and giving him a majority. This fact is also admitted, but it is insisted that no person had any right to vote for any office to be filled by the electors of the State of Michigan, unless the "vote was cast in the township or ward where the voter resided."

I am well aware of the sympathy existing for the many brave and patriotic soldiers of our land; that legislation has almost invariably been exercised in their behalf; and that whenever a doubt existed they had the benefit of that doubt. I would not oppose the extension to them of every reasonable privilege, but I insist that we ought not to permit our sympathy to overstep the safeguards of our State Constitutions, prescribed to protect the rights of the people and the purity of the elective franchise. No person ought to be permitted to vote for an elective officer, unless the State Constitution sanctions it.

The Legislature of the State of Michigan, by an act passed in the winter of 1864, made certain provisions for the exercise of the right of suffrage by the various citizens of that State in the military service of the United States, and it is under that act, and by virtue of its provisions, that the said votes, giving Mr. Trowbridge a majority, were cast. In canvassing them, the board of State Canvassers gave him the certificate. I contend that these votes are unconstitutional and void, and ought to be rejected.

The Constitution of the United States, Art. I, Sec. 2, Sub. 1, providing for Representatives in Congress, requires that the electors in each State shall have the same qualifications requisite for electors in the most numerous branch of the State Legislature; and by Section 4 of

the same article, that the times, places and manner of holding elections shall be prescribed in each State by the Legislature thereof. I concede that these provisions should have a fair and liberal construction. That the power to be exercised by the State Legislature, be employed in a manner best calculated to expand, and not diminish, the political rights of the people. But are there no restrictions upon this exercise of power? Is there no control over State Legislatures? They are created by the people of the States, speaking through the State Constitutions, and are confined in the performance of their duties by the limitations of those instruments. Those endeavoring to sustain this law assume that it is of no consequence what the Constitution of the State provides, —the Constitution of the United States confers this power upon a State Legislature, and it can exercise it irrespective of any prohibition of a State Constitution. Nothing can be more absurd. A State Legislature is created by the State Constitution. Its power is defined, its action in many respects is restricted, and when it assumes powers in matters prohibited, all such acts are absolutely void. In cases where the Constitution is silent upon matters coming before the body, there is no doubt of the affirmative power to act, and perhaps, in such cases, State Legislatures may provide for voting at such places as they please. The provision of the Constitution of the United States under consideration, was never intended to confer powers upon a State Legislature, in opposition to the Constitution of the State. The true construction is that the State Legislature shall prescribe the time and place, subservient to and in accordance with the local Constitution creating it.

I wish to call your attention to the various constitutional provisions of the State of Michigan upon the question of suffrage. In the appendix—"A," I have extracted the provisions of the Constitution of 1835, the amendment of 1839, and the Constitution of 1850. By that of 1835, no special restriction as to residence was placed upon the voter, and he could vote for the offices at any place in the district, and this might embrace the entire State. The facility for fraudulent voting afforded by this provision was such that the people, in 1839, amended it by requiring, in every instance, that the elector should vote in the town or ward in which he had his residence. This was followed by the Constitution of 1850,—the one now in force--making no change in respect to the place of voting. The people, in their organic law, have thus made the exercise of the right of suffrage in the town or ward, an essential qualification. No distinction was made in offices--the terms applying to all, from the President of the United States to the overseers of highways.

This peculiarity of the Constitution of Michigan deserves careful consideration. In providing for the exercise of the right of suffrage by the electors, the language is general, prescribing and limiting the qualification for every office. In other portions of the same instrument, certain designated officers were to be chosen at the same elections with Representatives in the State Legislature and Representatives in Congress. It will be observed but one qualification is fixed in all of these cases—sex, age, citizenship, and VOTING IN THE TOWNSHIP OR WARD where the elector resides. It cannot for a moment be contended that a vote for a Representative in the State Legislature may be a legal vote, and one for a Prosecuting Attorney be illegal. Both officers are created by the same instrument, and elected at the same time by the same voters; and common sense would dictate that all votes, legal or illegal, for one office, would be subject to like conditions as to the other, and no different course could properly be pursued.

The act of 1864 was broad and general in its terms. It named no officers. except in the closing sections, specifying to whom the various returns should be made. At the election in Nov. 1864, votes vere cast out of the State for all the various officers to be chosen at the time—and if any votes were invalid for one office, the disability pertained to all. In construing that provision of the National Constitution giving State Leg-

islatures power to fix the time and place of holding elections for members of Congress, one of the most important qualifying provisions is overlooked,—that of requiring electors to have like qualifications with electors for State Representatives.

The National Constitution provides that, "each house shall be the judge of the elections, returns and qualifications of its own members;" but this does not intend arbitrary and illegal action, but that this action shall be governed by certain, regular and previously established rules. Not that the body shall make law in so "judging," but in construing it, established principles as enunciated by the Courts and by Legislative bodies, shall be taken as the controlling guide. In nearly every contest that is made for a seat in Congress, State laws and State Constitutions are examined; and when a doubtful law has been brought before the proper court for determination, I insist that the construction the court of last resort of any state gives to such laws, should be binding upon every organized body wherever they are again brought directly in review.

In the case of Vallandigham vs. Campbell, Mr. Stanton, of Ohio, in discussing a question raised, said in reference to the obligatory nature of State decisions, and particularly of their applicability in guiding and controlling the action of Congress UPON THE SAME LAWS, "I do hold that the courts and constituted authorities of Ohio have a right, in the last resort, to put a construction on their own Constitution, and on their own laws—and whatever is held by the Ohio courts to be a sound construction of an Ohio law, or an Ohio Constitution, is its true construction everywhere, and whenever it may be called in question; and the United States Supreme Court is bound to follow it."

In Michigan, after the board of State Canvassers had passed upon the votes, the case of Twichell vs. Blodgett, (13 Mich. Rep.) came before the Supreme Court. The only question involved was the constitutionality of the Soldiers' Voting law of Michigan of 1864. The parties were candidates for the office of Prosecuting Attorney, and Blodgett had a majority of the home vote. The soldiers' vote elected Twichell. All the Supreme Court Judges were republicans, and with one dissenting voice, it was held that the act of 1864, giving soldiers the right to vote out of the State, was unconstitutional, and the office was awarded to Blodgett. To the mind of any one disinterested, this opinion of the Supreme Court of Michigan ought to settle all questions pertaining to the matter between Mr. Trowbridge and myself. The votes were cast at the same election, under the provisions of the same law; and, the case divested of all purely technical questions, raised only to obscure, would present such a state of affairs that a candid person, endowed with an honest desire to determine correctly, could hardly find occasion to cavil about my right to the seat for which I am contending. The votes for Congress were referred to in the opinion of the court. All the members had a strong bias in favor of sustaining the law, but like upright judges, they were not to be swayed by any partisan feeling.

I have annexed to my case the opinions of all the justices of the court upon the question, and I believe I might, with every confidence of a favorable result, after presenting them leave the matter for your consideration. But it will be insisted that, though that act is void as to State officers, it is valid as to to the national ones. Many refined theories have been presented on the part of my competitor and his friends to give this law force in his case, though it may be a dead letter to all elective offices in Michigan.

1st. It is contended that the Constitution of the United States only requires the elector to have the same requisite as to citizenship, color and age; and that time, place and manner of holding the elections are merely incident to the exercise of the right, and that by making this distinction, the State Legislature could clearly cause polls to be opened in distant States for the election of Congressmen, and at the same time restrain all other electors to their home voting places. This theory may be a plausible one, but it depends

wholly upon the fact whether the place of exercising the right of suffrage is any part of the "qualification." If it be, the theory absolutely falls, and nothing is left to Mr. Trowbridge to rely upon, except force, or the power of numbers to sustain his pretension.

Though the National Constitution empower the State Legislature to fix the time, place and manner of holding elections, it confers no power to endow a person with the right of voting unless he have like qualifications with State Legislative electors. The Supreme Court of Michigan hold that the "place" of voting is a "qualification" and as that body is the only authoritative one empowered to give a judicial construction to the Constitution of Michigan, I might consider that question set at rest. By referring to the various matters that have been deemed qualifications in the several States, the utter fallacy of this refined reasoning will be evident. The provisions in the different states fixing qualifications for electors, have not only been as numerous as the number of states, but have been repeatedly changed in each state. At an early day in our history, property was an essential "qualification" in nearly all of them: in every one, I believe, actual residence is indispensable, and yet these are all "qualifications," and are of the same nature as that fixing the "place" where the vote is deposited.

The term "qualification" means, when applied to voters,—such requisites of age, sex, color, property, residence and place of voting, as is required by the organic law; and as between electors for Representatives in Congress and in the State Legislatures, the Constitution of the United States made no distinction, but expressly fixed the same condition upon each.

2nd. It is contended because the Legislature of Michigan admitted certain members elected by the soldiers' vote, it is a precedent for Congress. I am aware that much stress will be placed upon the action of the Michigan Legislature. There were in both bodies fourteen seats contested for this cause; and when the matter was referred to the appropriate Committee, that of the Senate, in a document that evinced integrity, ability and statesmanship, reported unanimously in favor of recognizing the action of the Supreme Court. When the cases were brought to test in that body, those elected by soldiers' votes actually voted upon the question of admitting members similarly situated with themselves, thus virtually acting in their own case; and the Senate only with the addition of these votes, gave a majority in favor of nullifying the action of the court. Strange and discreditable as this was, it was paralleled and excelled in the House.

In the House, the majority of the Committee made a long report in substance that they had full power to vote anybody in as members of the House, and urging the fact that, as they had at the commencement of the session, before the Supreme Court had solemnly pronounced the law unconstitutional, admitted the members elected under that law, therefore, it was "res adjudicata," and they would not reconsider their action or retrace their steps. It will be borne in mind that all the "hungry aspirants" for legislative honors were hovering around these bodies having seats therein, and in a position to use their influence to effect their purposes. Their acts cannot be characterized in very mild language, but it is unnecessary for me to attempt it. Every man learned in the law in Michigan, whose opinion was worth anything, and without distinction of party, sustained the court and rejoiced at their justice and independence in making the decision; and the action as well as the motives of that Legislature were severely animadverted upon in the State by the leading members, and the press of the republican party. To sustain me in this statement, let me call your attention to the few extracts I have collated in Appendix "B," and particularly the one from the Detroit Tribune, the leading republican paper of Michigan. That paper, keenly alive as it is to the interest of its party and of the soldiers, did not hesitate to brand this action of the Legislature as caused by "lax morals, and reckless partizan leadership." In view of all the facts connected with this

subject, I contend it is of no weight as an authority, and a true citizen of Michigan ought to blush at the recital of such acts from the chosen Representatives of the people of that "beautiful peninsula," and hasten to purify her fair fame from the contamination these disgraceful proceedings have brought upon her.

I have cited the authorities in the Appendix relating to the legislative action to show the opinion, in part, of the people of Michigan. I might multiply them, with a little research, to an unlimited extent, but those I have presented are sufficient.

In further contesting the positions assumed, I again contend that when a State Constitution fixes the "place" of holding the election, it is a "qualification" in the full sense of the term, and the Legislature have no power to alter or control it. The Constitution of a State is its "ORGANIC LAW." It creates Legislatures, gives them vitality, and sets them in motion. It endows electors with their rights and prescribes the manner of their exercise. The Legislature, without an express grant from the State Constitution, has nothing to do with this exercise of the right by the electors. That, though Congress has the power of judging of the qualifications of its own members, it is as much restricted in the exercise of that power by previously established rules and regulations as is a court in construing a statute. If these rules were to be varied to suit the whims or the caprices of a party merely because it was in the ascendency, there would be no guide for contested cases, and no certainty that justice would be done in any emergency.

I further insist that the State Constitution is not only the proper place to ascertain the qualifications of the electors, but if the time and place "are fixed by that instrument, they are also qualifications," and control the action of the committee.

To sustain me in the foregoing proposition, I will first cite the case of Shiel vs. Thayer, in the 37th Congress.

In the able report of the Chairman of the Committee of elections I find the following:

"The Committee would have had no difficulty in coming to this conclusion, had it not been for the action of the Legislature of Oregon, upon this subject. Notwithstanding this CONSTITUTIONAL PROVISION, that general elections shall be held on the first Monday of June, biennially, the Legislature of Oregon SEEMS TO HAVE BELIEVED, THAT IT HAD POWER TO FIX ANOTHER TIME for the election of Representatives in Congress. The Committee had not deemed it necessary to determine what those reasons are, for, WITH ALL DUE RESPECT TO THE OPINIONS OF THE GENTLEMEN COMPRISING THAT LEGISLATURE, they are of opinion that this House must be the final judge, &c. And for the reasons stated the Committee have no doubt THAT THE CONSTITUTION OF THE STATE HAS FIXED BEYOND THE CONTROL OF THE LEGISLATURE the time for holding an election for Representatives in Congress, at the general election, to be held biennially, and that at such election so held IN PURSUANCE OF THE CONSTITUTION, the contestant was duly elected."

I submit that this report is conclusive, as to the main quesion involved in my own case. Substitute "place" for "time," and the two cases would be almost parallel. But this doctrine enunciated in Shiel's case was not a novel one, as I will show. His case came before the House, and during the debate a motion was made to reject both of the parties, and it was said in advocating this proposition, that no other power than the Legislature of a State has a right to fix the time of holding a Congressional election. Mr. Dawes, in support of his report, says, "THAT THE ORGANIC LAW, that which RISES ABOVE, AND SWALLOWS UP ALL LEGISLATIVE ACTIONS, having determined that this election shall be held on a particular day, in a specific manner, &c., it occurs to me in that provision of the Constitution of the United States which says that the time and place shall be specified by the Legislature of each State meant simply that they should be fixed by the constituted authorities of the State until Congress shall fix a time." When the vote was taken in the House, the position assumed by the committee was triumphantly sustained, and among

those who were then unwilling to countenance such principles as are contended for in opposing my case, I am rejoiced to find the name of my gallant competitor. [See case of Shiel vs. Thayer, Bartlett's Contested Election cases, page 349.

I ought to examine the election cases somewhat in a chronological order, but as Mr. Trowbridge had so appropriately placed himself upon the records of Congress sustaining the true constitutional principle, I trust I may be pardoned for anticipating the foregoing case.

The next one I shall cite bearing upon the question, was Kelly vs. Harris, in 1813. [Clarke and Hall's Contested Elections, 260.] The committee on elections, in their report, say, "By the testimony of Obarr he had not a freehold in the district, nor had he been living more than three months in the same at the time of the election. By the third article of the Constitution of Tennessee, it is provided that every freeman of the age of twenty-one years and upwards, possessing a freehold in the county wherein he may vote, and being an inhabitant of this State, and every freeman being an inhabitant of any one county of the State six months immediately preceeding the election, shall be entitled to vote for members of the general assembly, for the county in which he shall reside.

The committee are of opinion that that branch of the article which prescribes the second qualification of the voter, RESTRICTS HIM TO VOTE IN THE COUNTY WHEREIN HE HAS BEEN AN INHABITANT SIX MONTHS IMMEDIATELY PRECEDING THE DAY OF ELECTION, AND PERMITS HIM TO VOTE NOWHERE ELSE."

The following references are to the excellent compilation recently made by D. W. Bartlett, Esq., Sec'y of the Committee on Elections.

In Farlee vs. Runk, in the 29th Congress, it appeared that certain votes were given for the sitting member, Mr. Runk, by students in Princeton College, thus giving him a majority. The election was held in Nov., 1844. By a law of New Jersey, passed in March, 1844, students were expressly prohibited from voting, except at their place of actual residence. The new Constitution of New Jersey went into effect Oct. 1st, 1844, and by that, students in certain cases, though prohibited to vote by the Legislature of the State, were authorized in effect so to do by the new Constitution. In the report of the committee rejecting the application of Mr. Farlee, they call the Constitution of the State the "fundament law," superseding the legislative acts. [See page 90.

I will also call the attention of the Committee to the remarks of the Chairman of the Committee of Elections, 1850, in Miller vs. Thompson, page 136, Cont. Elec.

"But it was said that these persons all resided within the Congressional District, and that it was unimportant, therefore, in what county their votes were counted. This amounted to the very thing against which he was contending. IT WAS AN ASSERTION OF THE POWER OF THIS HOUSE TO DISREGARD ENTIRELY A CONSTITUTIONAL RESTRICTION!"

In Howard vs. Cooper, page 284, Mr. Dawes, in debate, said: "The Constitution and Laws of Michigan required that, in order to be a qualified voter in that State, there must be a residence three months within the State, and of ten days before the election within the township or ward WHERE THE VOTE IS CAST." Here again "place" is a qualification in its real sense. In examination of the many cases that have been before Congress during the last fifty years, I cannot find a principle enunciated that militates against me.

The constitutional requirements of the States have invariably been respected; and though partizen strife has often manifiested itself both in the discussions and the votes, never has it been carried so far as to trample upon the provisions of a State Constitution, disregard the construction put upon that instrument by the highest State judicature, and admit a member when there could be no valid pretence that he was elected by constitutional votes.

I have purposely refrained from making any reference to the decisions of courts, other than that of Michigan, as

that was the only authoritative one in construing our own constitution and laws. I might multiply citations of authorities to accumulate proofs of the soundness of the positions I have assumed, but I deem that in this paper those presented are sufficient to fortify me on every point. On another occasion, and at another time, I may elaborate upon some of them.

I trust that what I have set forth, brief though it be, will satisfy any dispassionate, unprejudiced person that my competitor has no right to a seat in the House, and in holding it, he is usurping a position to which he has no claim.

That I had an undoubted majority of the constitutional votes cast at the election of Nov., 1864, is a fact, I believe, placed beyond cavil, and I confidently leave my case in your hands.

AUG. C. BALDWIN.

WASHINGTON, January 9, 1866.

APPENDIX A.

[*Extract from the Constitution of the State of Michigan of* 1835.]

ARTICLE II, Sec. 1. "In all elections, every white male citizen above the age of twenty-one years, having resided in the State six months next preceding any election shall be entitled to vote at such election, but no such citizen or inhabitant shall be entitled to vote except in the district, county or township in which he shall actually reside at the time of such election."

[*Amendment to the Constitution of* 1835, *made in* 1839, *as follows:*

"That so much of the first section of the second article of the Constitution, as prescribes the place in which an elector may vote, and which is in these words, to wit: 'District, County or Township,' be abolished, and that the following be submitted in the place thereof, to wit: 'Township or Ward.'" [Laws of 1839, page 261.

The Constitution of 1835 and the amendment were superseded by the Constitution of 1850.

[*Extract fron the Constitution of the State of Michigan of* 1850.]

ARTICLE ELECTIONS, ART. VII, PART OF SEC. 1. "But no citizen or inhabitant shall be an elector or entitled to vote unless he shall be above the age of twenty-one years, and has resided in this State three months, and in the township or ward in which he *offers* to vote, ten days next preceding such election."

APPENDIX B.

[*Extract from the Detroit Advertiser and Tribune, Feb.*, 1865.]

"We suppose, however, that the time for argument and appeal are both passed, *and that lax morals and reckless partisan leadership have placed the Legislature, even while we now write, in an irretrievably false position.* If so, it is a matter of proud consciousness that the republican masses are uncontaminated. They will submit to the decision of the highest court of the State and repudiate the men who defy it. EVERY MEMBER of the LEGISLATURE who VOTES to defy THE DECISION of the SUPREME COURT THEREBY DIGS HIS POLITICAL GRAVE AND SETS UP HIS TOMBSTONE. HE MAY TAKE A LONG FAREWELL OF ALL HIS AMBITIONS. THE PEOPLE COULD FORGIVE HIS ERROR AND INFATUATION, WERE IT NOT THAT SO INFIRM A JUDGMENT AND FEEBLE A MORAL SENSE MUST EVER RENDER HIS ELEVAVION A PUBLIC DANGER. We make no menace or forge no malediction, but claim to speak in the voice of prophecy that which is inevitable."

[*From the Sanilac Jeffersonian of Feb.* 4.]

The effect of it, is simply to annul the soldiers' vote, except so far as its influence is concerned. The fact that the vote was nearly unanimous for the principles promulgated by the Republican party in the last campaign cannot be forgotten, nor that one member of the next Congress (the Hon. A. C. Baldwin) will owe his election to the throwing out of the vote of our country's defenders.

[*From the Tuseola Pioneer of Feb.*, 1865, *referring to the Legislature of Michigan.*]

"The language used by members on this occasion, we consider beneath the dignity of members of any respectable organization. The stab at the *Advertiser*, in preventing its proprietors from obtaining pay for services rendered in good faith, and the personalities indulged in by the members referred to, we trust will be more than healed by the unanimous support of an intelligent, conscientious and freedom-loving people. Shame on a Legislature that frames laws for a State with near a million people, spending the time of their constituents in devising means to punish a newspaper that dissented from its action, WHILE IN DOING SO, IT BUT SUSTAINED THE OPINION OF THE SUPREME COURT OF THE STATE."

[*From the Lansing Republican (the State paper,) of Feb.* 8, 1865.]

THE SUPREME COURT DECISION.

* * * As the decision of the Supreme Court is a topic of discussion all over the State, we will remark concerning it. * * *

2. This decision having now been made, is binding on all the people, whether they believe in its correctness or not; and it should be carried out everywhere, without evasion or delay. We might as well not have any Supreme Court, as to have one and pay no attention to its decisions.

3. The immediate effect will be to disfranchise more than 12,000 officers and soldiers, and to unseat some twenty or thirty county officers in various parts of the State. It appears that the towns of Lansing, Marshall, Niles, Ypsilanti, and some others held their elections within the charter limits of adjoining cities, and therefore all votes so given will be thrown out. This will unseat many county officers, and some members of the Legislature of both parties, and it is claimed will secure the election of Trowbridge to Congress on the home vote. The vote of the town of Lansing thrown out will unseat three officers in this county.

4. As to the seats of members in the Legislature which have been already passed upon, the

decision will not affect them. The House and Senate having determined who are members cannot get them out of their Houses except by expulsion for cause; and any attempt to remove them in any other way would be highly unjust to the parties, and would place the body doing it in a ridiculous attitude before the public.

5. The case is entirely different, however, with regard to the seats for which *new* contestants may appear since this decision was rendered. It is true that each House is an absolute judge of the qualifications and election of its own members, and no power can prevent it from doing just as it pleases. But, in taking action on these seats, the members are as much bound by the decision of the Court as any other citizens; and in becoming legislators, they do not throw off their liabilities as citizens. A refusal on their part in determining who are entitled to seats, to pay any attention to the decision of the Court, looks to us like an actual nullification of it. We do not see any way for them to evade their obligations in this respect, if they were inclined to do so, unless it be by asserting that everybody in the State is bound by the decisions of the Supreme Court except legislators, and they are a privileged class of men.

APPENDIX C.

Containing extracts from the report of the Committee of the House of Representatives of Michigan, as to the question of "res adjudicata."

At the commencement of the present session it appeared by some of the certificates held by members, and petitions presented by contestants claiming seats, that the only grounds on which seats were contested was, that the law authorizing soldiers to vote when personally absent from the township in which they resided, had been enacted by the Legislature in violation of the Constitution of this State. This was the direct question and only question presented for the House to pass upon.

This House, in its judgment and decision, passed fully upon that question, and did judicially determine and declare that said law, entitled "an act to enable the qualified electors of this State, in the military service, to vote at certain elections," etc., was a valid law, and that the same was not a violation of the Constitution. Under and by virtue of said judgment and decision, the rights of membership became vested in all those whose elections depended upon the votes cast under and by virtue of said law. And in the opinion of your committee the question has become *res adjudicata*, and should be adhered to by this legislative body with even more tenacity than is exhibited by courts of law in adhering to their judicial judgments and determinations.

* * * Prior to the decision of the Supreme Court, this House had decided that the soldiers' vote should be permitted to take effect in four several cases.

* * * We neither offer to nor accept any challenge from them which may lead to a conflict. Our judgment must control as to the election of our members; their judgment, by the law of the land will control the action of all the inferior courts, the executive officers of the State, and the people in all the private walks of life. The effect of their judgment will be that no election can again be held under the law in question, because the officers who carry on the machinery of an election are properly under the control, and must yield their judgment to that of the courts.

* * * But, believing the question to have been heretofore settled, finally adjudicated, they have directed their chairman to report the several petitions and accompanying documents, with the following preamble and resolutions, the resolutions being numbered from one to ten, inclusive:

Whereas, By the Constitution of Michigan, the judicial power and authority to "judge of qualifications, election and return of members," are vested in each House of the Legislature:

And whereas, At the commencement of this session, in judging of the election of members, whose right to seats in this House depended upon the legality and validity of the soldiers' vote, under the act entitled "an act to enable the qualified electors of this State, in the military service, to vote at certain elections," etc., it was then judicially declared by this House, that said votes should be regarded in determining the question of election, upon which determination and decision, members were admitted to seats on this floor; therefore,

1. *Resolved*, That in the opinion and judgment of this House, it would be a dangerous and unjustifiable exercise of power on the part of this body, to revoke and set aside said determination and decision, and thereby eject from this House such members as may hold their seats by virtue of the soldiers' votes, cast in pursuance of the act above recited.