EXTRA SESSION OF THE 46TH CONGRESS.

SPEECHES

OF

HON. JAMES A. GARFIELD,

OF OHIO,

IN THE

HOUSE OF REPRESENTATIVES,

AT

THE EXTRA SESSION, MARCH 18 TO JULY 1, 1879.

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I.

THE APPROPRIATION BILLS.

1. FIRST ARMY BILL.

REVOLUTION IN CONGRESS.

SATURDAY, *March* 29, 1879.

The House being in Committee of the Whole, and having 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—

Mr. GARFIELD said:

Mr. CHAIRMAN: I have no hope of being able to convey to the members of this House my own conviction of the very great gravity and solemnity of the crisis which this decision of the Chair and of the Committee of the Whole has brought upon this country. I wish I could be proved a false prophet in reference to the result of this action. I wish I could be overwhelmed with the proof that I am utterly mistaken in my views. But no view I have ever taken has entered more deeply and more seriously into my conviction than this, that the House has to-day resolved to enter upon a revolution against the Constitution and Government of the United States. I do not know that this intention exists in the minds of half the Representatives who occupy the other side of this Hall. I hope it does not. I am ready to believe it does not exist to any great extent. But I affirm that the consequence of the programme just adopted, if persisted in, will be nothing less than the total subversion of this government.

THE QUESTION STATED.

Let me in the outset state, as carefully as I may, the precise situation. At the last session, all our ordinary legislative work was done in accordance with the usages of the House and Senate, except as to two bills. Two of the twelve great appropriation bills for the support of the government were agreed to in both Houses as to every matter of detail concerning the appropriations proper. We were assured by the committees of conference in both bodies that there would be no difficulty in adjusting all differences in reference to the amount of money to be appropriated and the objects of its appropriation. But the House of Representatives proposed three measures of distinctly independent legislation; one upon the Army appropriation bill, and two upon the legislative appropriation bill. The three grouped together are briefly these: First, the substantial modification of certain sections of the law relating to the use of the Army; second, the repeal of the jurors' test oath; and third, the repeal of the laws regulating elections of members of Congress.

These three propositions of legislation were insisted upon by the House; but the Senate refused to adopt them. So far it was an ordinary proceeding, one which occurs frequently in all legislative bodies.

The Senate said to us through their conferees, "We are ready to pass the appropriation bills; but we are unwilling to pass as riders the three legislative measures you ask us to pass." Thereupon the House, through its conference committee, made the following declaration—and in order that I may do exact justice, I read from the speech of the distinguished Senator from Kentucky [Mr. Beck], on the report of the conference committee:

> The Democratic conferees on the part of the House seem determined that unless those rights were secured to the people—

alluding to the three points I have named—

> in the bill sent to the Senate, they would refuse, under their constitutional right, to make appropriations to carry on the government, if the dominant majority in the Senate insisted upon the maintenance of these laws and *refused to consent* to their repeal.

Then, after stating that if the position they had taken compelled an extra session, the new Congress would offer the repealing bills separately, and forecasting what would happen when the new House should be under no necessity of coercing the Senate, he said:

> If, however, the President of the United States, in the exercise of the power vested in him, should see fit to veto the bills thus presented to him, * * * then I have no doubt those same amendments will be again made part of the appropriation bills, and it will be for the President to determine whether he will block the wheels of government and refuse to accept necessary appropriations rather than allow the representatives of the people to repeal odious laws which they regard as subversive of their rights and privileges. * * * Whether that course is right or wrong, it will be adopted, and I have no doubt adhered to, no matter what happens with the appropriation bills.

That was the proposition made by the Democracy in Congress at the close of the Congress now dead.

Another distinguished Senator [Mr. Thurman]—and I may properly refer to Senators of a Congress not now in existence—reviewing the situation, declared, in still more succinct terms:

> We claim the right, which the House of Commons in England established after two centuries of contest, to say that we will not grant the money of the people unless there is a redress of grievances.

These propositions were repeated with various degrees of vehemence by the majority in the House.

The majority in the Senate and the minority on this floor expressed the deepest anxiety to avoid an extra session and to avert the catastrophe thus threatened—the stoppage of the government. They pointed out the danger to the country and its business interests of an extra session of Congress, and expressed their willingness to consent to any compromise consistent with their views of duty which should be offered—not in the way of coercion but in the way of fair adjustment—and asked to be met in a spirit of just accommodation on the other side. Unfortunately no spirit of adjustment was manifested in reply to their advances. And now the new Congress is assembled; and after ten days of caucus deliberation, the House of Representatives has resolved, substantially, to reaffirm the positions of its predecessors, except that the suggestion of Senator Beck to offer the independent legislation in a separate bill has been abandoned. By a construction of the rules of the House far more violent than any heretofore given, a part of this independent legislation is placed on the pending bill for the support of the Army; and this House has determined to begin its career by the extremest form of coercive legislation.

In my remarks to-day I shall confine myself almost exclusively to the one phase of the controversy presented in this bill.

Mr. ATKINS. Will the honorable gentleman allow me to interrupt him a moment?

Mr. GARFIELD. With pleasure.

Mr. ATKINS. Do I understand you to state that in the conference committee no proposition was made other than the one suggested in the legislation proposed to be attached to the bill by the House conferees?

Mr. GARFIELD. I did not undertake to state what was done in conference except as reported by Senator Beck, for I was not a member of the committee.

Mr. ATKINS. I thought you did.

Mr. GARFIELD. No; I only declared what was proposed on the floor of the House and Senate.

Mr. ATKINS. With the gentleman's permission I will state that the proposition the House made in conference committee was substantially the proposition now before the House and here offered to be attached to these bills.

Mr. GARFIELD. I take it for granted that what my friend on the other side says is strictly true; but not even that proposition was reported to either House.

The question, Mr. Chairman, may be asked, why make any special resistance to the clauses of legislation in this bill which a good many gentlemen on this side declared at the last session they cared but little about, and regarded as of very little practical importance, because for years there had been no actual use for any part of these laws, and they had no expectation there would be any? It may be asked, why make any controversy on either side? So far as we are concerned, Mr. Chairman, I desire to say this: we recognize the other side as accomplished parliamentarians and strategists, who have adopted with skill and adroitness their plan of assault. You have placed in the front, one of the least objectionable of your measures; but your whole programme has been announced, and we reply to your whole order of battle. The logic of your position compels us to meet you as promptly on the skirmish line as afterward when our entrenchments are assailed; and, therefore, at the outset, we plant our case upon the general ground upon which we have chosen to defend it.

THE VOLUNTARY POWERS OF THE GOVERNMENT.

And here, sir, I wish to make a brief digression, in which I hope no gentleman will consider my discussion as controversial or personal. I had occasion, at a late hour of the last Congress, to say something on what may be called the voluntary element in our institutions. I spoke of the distribution of the powers of government. First, to the nation; second, to the States; and, third, the reservation of power to the people themselves.

I called attention to the fact that under our form of government the most precious rights that men can possess on this earth are not delegated to the nation nor to the States, but are reserved to the third estate—the people themselves. I called attention to the interesting fact that lately the chancellor of the German Empire made the declaration that it was the chief object of the existence of the German Government to defend and maintain the religion of Jesus Christ—an object in reference to which our Congress is absolutely forbidden by the Constitution to legislate at all. Congress can establish no religion; indeed, can make no law respecting it, because in the view of our fathers—the founders of our government—religion was too precious a right to intrust its interests by delegation to any government. Its maintenance was left to the voluntary action of the people themselves.

In continuation of that thought, I wish now to speak of the voluntary element inside our government—a topic that I have not heard discussed, but one which appears to me of vital importance in any comprehensive view of our institutions.

Mr. Chairman, viewed from the stand-point of a foreigner, our government may be said to be the feeblest on the earth. From our stand-point, and with our experience, it is the mightiest. But why would a foreigner call it the feeblest? He can point out a half dozen ways in which it can be destroyed without violence. Of course, all governments may be overturned by the sword; but there are several ways in which ours may be annihilated without the firing of a gun.

For example, if the people of the United States should say we will elect no Representative to the House of Representatives—of course this is a violent supposition—but suppose they do not, is there any remedy? Does our Constitution provide any remedy whatever? In two years there would be no House of Representatives; of course no support of the government, and no government. Suppose, again, the States should say, through their legislatures, we will elect no Senators. Such abstention alone would absolutely destroy this government; and our system provides no process of compulsion to prevent it.

Again, suppose the two Houses were assembled in their usual order, and a majority of one in this body or in the Senate, should firmly band themselves together and say we will vote to adjourn the moment the hour of meeting arrives, and continue so to vote at every session during our two years of existence; the government would perish; and there is no provision of the Constitution to prevent it. Or, again if a majority of one in either body should declare that they would vote down, and did vote down, every bill to support the government by appropriations, can you find in the whole range of our judicial or our executive authority any remedy whatever? A Senator or a member of this House is free, and may vote "No" on every proposition. Nothing but his oath and his honor restrains him. Not so with executive and judicial officers. They have no power to destroy this government. Let them travel an inch beyond the line of the law, and they fall within the power of impeachment. But against the people who create Representatives, against the legislatures who create Senators, against Senators and Representatives in these Halls, there is no power of impeachment; there is no remedy, if by abstention or by adverse votes they refuse to support the government.

At a first view, it would seem strange that a body of men so wise as our fathers were should have left a whole side of their fabric open to these deadly assaults; but on a closer view of the case their wisdom will appear. What was their reliance? This: the sovereign of this nation, the God-crowned and Heaven-anointed sovereign, in whom resides "the State's collected will," and to whom we all owe allegiance, is the people themselves. Inspired by love of country and by a deep sense of obligation to perform every public duty, being themselves the creators of all the agencies and forces to execute their own will, and choosing from themselves their representatives to express that will in the forms of law, it would have been like a suggestion of suicide to assume that any of these great voluntary powers would be turned against the life of the government. Public opinion—that great ocean of thought from whose level all heights and all depths are measured—was trusted as a power amply able, and always willing, to guard all the approaches on that side of the Constitution from any assault on the life of the nation.

Up to this hour our sovereign has never failed us. There has never

been such a refusal to exercise those primary functions of sovereignty as either to endanger or cripple the government; nor have the majority of the representatives of that sovereign in either House of Congress ever before announced their purpose to use their voluntary powers for its destruction. And now, for the first time in our history, and I will add for the first time for at least two centuries in the history of any English-speaking nation, it is suggested and threatened that these voluntary powers of Congress shall be used for the destruction of the government. I want it distinctly understood that the proposition which I read at the beginning of my remarks, and which is the programme announced to the American people to-day, is this: That if this House cannot have its own way in certain matters not connected with appropriations, it will so use, or refrain from using, its voluntary powers as to destroy the government.

Now, Mr. Chairman, it has been said on the other side, that when a demand for the redress of grievances is made, the authority that runs the risk of stopping and destroying the government is the one that resists the redress. Not so. If gentlemen will do me the honor to follow my thought for a moment more, I trust I will make this denial good.

FREE CONSENT THE BASIS OF OUR LAWS.

Our theory of law is free consent. That is the granite foundation of our whole superstructure. Nothing in this republic can be law without consent—the free consent of the House, the free consent of the Senate, the free consent of the Executive, or, if he refuse it, the free consent of two-thirds of these bodies. Will any man deny that? Will any man challenge a line of the statement that free consent is the foundation of all our institutions? And yet the programme announced two weeks ago was that, if the Senate refused to consent to the demand of the House, the government should stop. And the proposition was then, and the programme is now, that, although there is not a Senate to be coerced, there is still a third independent branch in the legislative power of the government whose consent is to be coerced at the peril of the destruction of this government; that is, if the President, in the discharge of his duty, shall exercise his plain Constitutional right to refuse his consent to this proposed legislation, the Congress will so use its voluntary powers as to destroy the government. This is the proposition which we confront; and we denounce it as revolution.

It makes no difference, Mr. Chairman, what the issue is. If it were the simplest and most inoffensive proposition in the world, yet if you demand, as a measure of coercion, that it shall be adopted against the free consent prescribed in the Constitution, every fair-minded man in America is bound to resist you as much as though his own life depended upon his resistance.

Let it be understood that I am not arguing the merits of any one of the three amendments. I am discussing the proposed method of legislation; and I declare that it is against the Constitution of our country. It is revolutionary to the core, and is destructive of the fundamental principle of American liberty, the free consent of all the powers that unite to make laws.

In opening this debate I challenge all comers to show a single instance in our history where this consent has been thus coerced. This is the great, the paramount issue which dwarfs all others into insignificance.

THE ORIGIN OF THE LAW SOUGHT TO BE MODIFIED.

I now turn aside, for a moment, from the line of my argument to say that it is not a little surprising that our friends on the other side should have gone into this great contest on so weak a cause as the one embraced in the pending amendment to this bill.

Victor Hugo said, in his description of the battle of Waterloo, that the struggle of the two armies was like the wrestling of two giants, when a chip under the heel of one might determine the victory. It may be that this amendment is the chip under your heel, or it may be that it is the chip on our shoulder. As a chip, it is of small account to you or to us; but when it represents the integrity of the Constitution and is assailed by revolution, we fight for it as for a Kohinoor of purest water. [Applause.]

The distinguished and venerable gentleman from Georgia [Mr. Stephens] spoke of this law, which is sought to be repealed, as "odious and dangerous." It has been denounced as a piece of partisan war legislation to enable the Army to control elections.

Do gentlemen know its history? Do they know whereof they affirm? Who made this law which is denounced as so great an offense as to justify the destruction of the government rather than let it remain on the statute-book? Its first draft was introduced into the Senate by a prominent Democrat from the State of Kentucky, Mr. Powell, who made an able speech in its favor. It was reported against by a Republican committee of that body, whose printed report I hold in my hand. It encountered weeks of debate, was amended and passed, and then came into the House. Every Democrat present in the Senate voted for it on its final passage. Every Senator who voted against it was a Republican. No Democrat voted against it. Who were the Democrats that voted for it? Let me read some of the names: Hendricks, of Indiana; Davis, of Kentucky; Johnson, of Maryland; McDougall, of California; Powell, of Kentucky; Richardson, of Illinois, and Saulsbury, of Delaware.

Of Republican Senators thirteen voted against it; only ten voted for it.

The bill then came to the House of Representatives and was put upon its passage here. How did the vote stand in this body? Every Democrat present at the time in the House of Representatives of the Thirty-eighth Congress, voted for it. The total vote in its favor in the House was 113; and of these 58 were Democrats. And who were they? The magnates of the party. The distinguished Speaker of this House, Mr. Samuel J. Randall, voted for it. The distinguished chairman of the Committee of Ways and Means of the last House, Mr. Fernando Wood, voted for it. The distinguished member from my own State who now holds a seat in the other end of the Capitol, Mr. George H. Pendleton, voted for it. Messrs. Cox and Coffroth, Kernan and Morrison, who are still in Congress, voted for it. Every Democrat of conspicuous name and fame in that House voted for the bill, and not one against it. There were but few Republicans who voted against it. I was one of the few. Thaddeus Stevens and Judge Kelley voted against it.

What was the controversy? What was the object of the bill? It was alleged by Democrats that in those days of war there were interferences with the proper freedom of elections in the border States. We denied the charge; but lest there might be some infraction of the freedom of elections, many Republicans, unwilling that there should be even the semblance of interference with that freedom, voted for it. This law is an expression of their purpose that the Army should not be used at any election except for the purpose of keeping the peace.

Those Republicans who voted against it did so on the ground that there was no cause for such legislation; that it was a slander upon the government and the Army to say that they were interfering with the proper freedom of elections. I was among that number——

Mr. CARLISLE. Will the gentleman allow me to ask him a question?

Mr. GARFIELD. Certainly

Mr. CARLISLE. I ask if the Democrats in the Senate and House of Representatives did not vote for that proposition because it came in the form of a substitute for another proposition that was still more objectionable?

Mr. GARFIELD. The gentleman is quite mistaken. The original bill was introduced by a gentleman from Kentucky, Mr. Powell; it was amended in its course through the Senate; but the votes to which I have referred were the final votes on its passage after all the amendments had been made; and, what was more, a Republican Senator moved to reconsider it, hoping that he might thereby kill it. And after several days' delay and debate it was again passed, every Democrat again voting for it. In the House there was no debate, and therefore no expression of the reasons why anybody voted for it. Each man voted according to his convictions, I suppose.

Mr. STEPHENS. Will the gentleman yield to me?

Mr. GARFIELD. I yield to the venerable gentleman from Georgia for a question.

Mr. STEPHENS. I simply ask if the country is likely to be revolutionized and the government destroyed by the repealing a law that the gentleman himself voted against? [Laughter on the Democratic side.]

Mr. GARFIELD. I think not. That is not the element of revolution, as I will show the gentleman. 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 Representatives declare 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 will be considered a sufficient ground for starving this government to death. That is the proposition which we denounce as revolution. [Applause on the Republican side.]

Mr. FERNANDO WOOD. I desire to ask the gentleman from Ohio a question.

Mr. GARFIELD. Certainly.

Mr. FERNADO WOOD. Before he leaves that part of his remarks to which the gentleman from Kentucky [Mr. Carlisle] has referred, I desire to ask the gentleman whether he wishes to make the impression upon the House that the bill introduced by Senator Powell, of Kentucky, and which resulted finally in the law of 1865, was the bill that passed the Senate, that passed the House, and for which he says the present Speaker of this House and myself voted?

Mr. GARFIELD. I have not intimated that there were no amendments. On the contrary I have said that it was amended in the Senate. One amendment permitted the use of the Army to repel armed enemies of the United States from the polls.

Mr. FERNANDO WOOD. So far as I am personally concerned, I deny that I ever voted for a bill except as a substitute for a more pernicious and objectionable measure. [Much laughter on the Republican side.]

Mr. GARFIELD. What I have said is a matter of record. And I say again the gentleman voted for this law; and every Democrat in the Senate and in the House who voted at all, voted for this law just as it now stands; and without their votes it could not have passed. No amendments whatever were offered in the House, and there was no other bill on the subject before the House.

Mr. FERNANDO WOOD. I desire to submit another question to my friend.

Mr. GARFIELD. Certainly.

Mr. FERNANDO WOOD. It is whether, in 1865, at the time of the passage of this law, when the war had not really subsided, whether there was not in a portion of this country a condition of things rendering it almost impossible to exercise the elective franchise unless there was some degree of military interference? [Great laughter.] And further, whether, after the experience of fourteen years since the war has subsided, that gentleman is yet prepared to continue a war measure in a time of profound peace in this country?

Mr. GARFIELD. No doubt the patriotic gentleman from New York [Mr. Fernando Wood] took all these things into consideration when he voted for this law; and I may have been unpatriotic in voting against it at that time; but he and I must stand by our records, as they were made.

THE NEW REBELLION.

Let it be understood that I am not discussing the merits of this law. I have merely turned aside from the line of my argument to show the inconsistency of the other side in proposing to stop the government if they cannot force the repeal of a law which they themselves made. I am discussing a method of revolution against the Constitution now proposed by this House, and to that issue I hold gentlemen in this debate, and challenge them to reply.

And now, Mr. Chairman, I ask the forbearance of gentlemen on the other side while I offer a suggestion, which I make with reluctance. They will bear me witness that I have, in many ways, shown my desire that the wounds of the war should be healed; that the grass which has grown green over the graves of the dead of both armies might symbolize the returning spring of friendship and peace between citizens who were lately in arms against each other.

But I am compelled, by the conduct of the other side, to refer to a chapter of our recent history. The last act of Democratic domination in this Capitol, eighteen years ago, was striking and dramatic, perhaps heroic. Then the Democratic party said to the Republicans, "If you elect the man of your choice as President of the United States we will shoot your government to death"; but the people of this country, refusing to be coerced by threats or violence, voted as they pleased, and lawfully elected Abraham Lincoln as President of the United States.

Then your leaders, though holding a majority in the other branch of Congress, were heroic enough to withdraw from their seats and fling down the gage of mortal battle. We called it rebellion; but we recognized it as courageous and manly to avow your purpose, take all the risks, and fight it out in the open field. Notwithstanding your utmost efforts to destroy it, the government was saved. Year by year, since the war ended, those who resisted you have come to believe that you have finally renounced your purpose to destroy, and are willing to maintain the government. In that belief you have been permitted to return to power in the two Houses.

To-day, after eighteen years of defeat, the book of your domination is again opened, and your first act awakens every unhappy memory, and threatens to destroy the confidence which your professions of patriotism inspired. You turned down a leaf of the history that recorded your last act of power in 1861, and you have now signalized your return to power by beginning a second chapter at the same page, not this time by a heroic act that declares war on the battle-field, but you say, if all the legislative powers of the government do not consent to let you tear certain laws out of the statute-book, you will not

shoot our government to death as you tried to do in the first chapter, but you declare that if we do not consent against our will, if you cannot coerce an independent branch of this government, against its will, to allow you to tear from the statute-books some laws put there by the will of the people, you will starve the government to death. [Great applause on the Republican side.]

Between death on the field and death by starvation, I do not know that the American people will see any great difference. The end, if successfully reached, would be death in either case. Gentlemen, you have it in your power to kill this government; you have it in your power, by withholding these two bills, to smite the nerve-centers of our Constitution with the paralysis of death; and you have declared your purpose to do this, if you cannot break down that fundamental principle of free consent which, up to this, hour has always ruled in the legislation of this government.

Mr. DAVIS, of North Carolina. Will the gentleman allow me to ask him a question?

Mr. GARFIELD. Certainly.

Mr. DAVIS, of North Carolina. Do I understand the gentleman to say that the refusal to permit the Army at the polls will be the death of this government? [Derisive cries of "Oh!" "Oh!" on the Republican side.] That is the logic of the gentleman's argument, if it means anything. But we say that it will be the preservation of this government to keep the military power from destroying liberty at the polls.

Mr. GARFIELD. I have too much respect for the intellect of the gentleman from North Carolina to believe that he thinks that is my argument. He does not say he thinks so. On the contrary, I am sure that every clear-minded man on this floor knows that such is not my argument. The position on the other side is simply this: that unless some independent branch of the legislative power of this government is forced against its will to vote for or to approve what it does not freely consent to, you will use the voluntary power in your hands to starve the government to death.

Mr. DAVIS, of North Carolina. Will the gentleman permit me to ask him another question? Do I understand him to assume that we are forcing some branch of the government to do what it does not wish to do? How do we know that, or how does the gentleman know it? Does the gentleman, when he speaks of "the government," mean to say that it is not the government of the majority, or does he assume that the majority is on his side?

Mr. GARFIELD. I am perfectly protected against the suggestion of the gentleman. I read in the outset declarations of leading members of his party in both branches of Congress asserting this programme and declaring the intention of carrying it through to the end, in spite of the Senate and in spite of an Executive veto, which they anticipate. The method here proposed invites, possibly compels, a veto.

COERCION OF THE PRESIDENT.

Touching this question of executive action, I remind the gentleman that in 1856 the national Democratic convention, in session at Cincinnati, and still later, the national Democratic convention of 1860, affirmed the right of the veto as one of the sacred rights guaranteed by our government. Here is the resolution:

That we are decidedly opposed to taking from the President the qualified veto power by which he is enabled, under restrictions and responsibilities amply sufficient to guard the public interests, to suspend the passage of a bill whose merits cannot secure the approval of two-thirds of the Senate and House of Representatives until the judgment of the people can be obtained thereon.

The doctrine is that any measure which cannot be passed over a veto by a two-thirds vote has no right to become a law, and the only mode of redress is an appeal to the people at the next election. That has been the Democratic doctrine from the earliest days, notably so from Jackson's time until now.

In leaving this topic, let me ask what would you have said if, in 1861, the Democratic members of the Senate, being then a majority of that body, instead of taking the heroic course and going out to battle, had simply said, "We will put on an appropriation bill an amendment declaring the right of any State to secede from the Union at pleasure, and forbidding the President or any officer of the Army or Navy of the United States from interfering with any State in its work of secession?" Suppose they had said to the President, "Unless you consent to the incorporation of this provision in an appropriation bill we will refuse supplies to the government." Perhaps they could then have killed the government by starvation; but even in the madness of that hour the leaders of rebellion did not think it worthy their manhood to put their fight on that dishonorable ground. They planted themselves on the higher plane of battle and fought it out to defeat.

Now, by a method which the wildest secessionist scorned to adopt, it is proposed to make this new assault upon the life of the republic.

Gentlemen, we have calmly surveyed this new field of conflict; we have tried to count the cost of the struggle, as we did that of 1861 before we took up your gage of battle. Though no human foresight could forecast the awful loss of blood and treasure, yet in the name of liberty and union we accepted the issue and fought it out to the end. We made the appeal to our august sovereign, to the omnipotent public opinion of America, to determine whether the Union should perish at your hands. You know the result. And now lawfully, in the exercise of our right as Representatives, we take up the gage you have this day thrown down, and appeal again to our common sovereign to determine whether you shall be permitted to destroy the principle of free consent in legislation under the threat of starving the government to death.

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 will 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 this government, even by the threat of starvation, to consent to surrender its lawful 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.

PROTECTION OF THE NATIONAL BALLOT-BOX REFUSED.

Let it be remembered that the avowed object of this new revolution is to destroy all the defenses which the nation has placed around its ballot-box to guard the fountain of its own life. You say that the United States shall not employ even its civil power to keep peace at the polls. You say that the marshals shall have no power either to arrest rioters or criminals who seek to destroy the freedom and purity of the ballot-box.

I remind you that you have not always shown this great zeal in keeping the civil officers of the general government out of the States. Only six years before the war, your law authorized marshals of the United

States to enter all our hamlets and households to hunt for fugitive slaves. Not only that, it empowered the marshals to summon the *posse comitatus*, to command all bystanders to join in the chase and aid in remanding to eternal bondage the fleeing slave. And your Democratic Attorney-General, in his opinion published in 1854, declared that the marshal of the United States might summon to his aid the whole able-bodied force of his precinct, all bystanders, including not only the citizens generally, "but any and all organized armed forces, whether militia of the State, or officers, soldiers, sailors, and marines of the United States," to join in the chase and hunt down the fugitive. Now, gentlemen, if, for the purpose of making eternal slavery the lot of an American, you could send your marshals, summon your *posse*, and use the armed force of the United States, with what face or grace can you tell us that this government cannot lawfully employ the same marshals with their armed *posse* of citizens, to maintain the purity of our own elections and keep the peace at our own polls. You have made the issue and we have accepted it. In the name of the Constitution and on behalf of good government and public justice, we make the appeal to our common sovereign.

For the present I refrain from discussing the merits of the election laws. I have sought only to state the first fundamental ground of our opposition to this revolutionary method of legislation by coercion. [Great applause.]

Mr. SPARKS. Before the gentleman from Ohio takes his seat I hope he will give to the House the name of the Attorney-General of the United States to whom he referred.

Mr. GARFIELD. I refer to Caleb Cushing, the Democratic Attorney-General of President Pierce.

2. CLOSE OF DEBATE ON FIRST ARMY BILL.

At the conclusion of the general debate on the sixth section of the Army appropriation bill, Friday, April 4, 1879, Mr. Garfield said:

Mr. CHAIRMAN: During the last four days, some fifteen or twenty gentlemen have paid their special attention to the argument I made last Saturday, and have announced its complete demolition. Now that the general debate has closed, I will notice the principal points of attack by which this work of destruction has been accomplished.

In the first place, every man, save one, who has replied to me, has alleged that I held it was revolutionary to place this general legislation upon an appropriation bill. One gentleman went so far as to fill a page of the Record with citations from the Congressional Globe and the Congressional Record to show that for many years riders had been placed upon appropriation bills. If gentlemen find any pleasure in setting up a man of straw and knocking it down again, they have enjoyed themselves.

I never claimed that it was either revolutionary or unconstitutional for this House to put a rider on an appropriation bill. No man on this side of the House has claimed that. The most that has been said is that it is considered a bad parliamentary practice; and all parties in this country have said that repeatedly.

The gentleman from Kentucky [Mr. Blackburn] evidently thought he was making a telling point against me when he cited the fact that, in 1872, I insisted upon the adoption of a conference report on an approriation bill that had a rider on it; and he alleged that I said it was revo-

lutionary for his party to resist it. Let me refresh his memory. I said then and I say now that it was revolutionary for the minority party to refuse to let the appropriation bill be voted on. For four days they said we should not vote at all on the sundry civil appropriation bill because there was a rider on it, put there not by the House but by the Senate.

I was sorry the rider was put on, and moved to non-concur in the amendments when they came to the House. But when the minority on this floor said that we should not act on the bill at all, because the rider was put upon it, I said and now say it was unjustifiable parliamentary obstruction. We do not filibuster. We do not struggle to prevent a vote on this bill. I will be loyal to the House of which I am a member, and maintain now, as I did then, the right of the majority to bring an appropriation bill to a vote.

You have a right—however unwise and indecent it may be as a matter of parliamentary practice—you have a perfect right to put this rider on this bill and pass it. When you send it to the Senate, that body has a perfect right to pass it. It is your constitutional right and theirs to pass it; for the free consent of each body is the basis of the law-making power.

When it goes to the President of the United States, it is his constitutional right to approve it; and if he does, it will then be a law, which you and I must obey. But it is equally his constitutional right to disapprove it; and should he do so, then, gentlemen, unless two-thirds of this body and two-thirds of the Senate pass it, notwithstanding the objections of the President, it is not only not your right to make it a law, but it will be the flattest violation of the Constitution, the sheerest usurpation of power to attempt to make it a law in any other way. Without these conditions you cannot make it a law.

What, then, is the proposition you have offered? You say that there are certain odious laws that you want to take off the statute-book. I say repeal them, if you can do so constitutionally. But you declare that you will compel consent to your will by refusing the necessary support—not to the President, not to any man—but to the government itself. This proposition I denounce as revolution, and no man has responded to the charge either by argument or denial.

No member on this side brought the question into this chamber. The issue was not raised by us. Who brought it here? The proclamation of your caucus, the declaration of your conference committees. They announced it in the last House as their programme. They said you would combine these measures of legislation together and send them to the President in a separate bill, and if he did not approve them you would never vote the supplies for the government.

You threatened the President in advance before you allowed him an opportunity to say yes or no. You entered this Hall fulminating threats against him in a high-sounding proclamation. You "thundered in the index." It remains to be seen whether, in the body of your work, and in its concluding paragraphs, your thunder will be as terrible as it was in the opening chapter. By adopting the programme of the last House you have made it your own; but you have put the measures in their most offensive form by tacking them all to the two great appropriation bills.

Another equally groundless charge against me and my associates, is that we have threatened your bills with an executive veto. I repel the charge as wholly untrue in fact. I said nothing that can be tortured into such a threat. It would be indecent on my part; it would be indecent for any of us even to speak of what the executive intends to do;

for none of us have the right to know. But you, in advance, proclaimed to the country and to him that if he dares to exercise his constitutional right of refusing his consent, you will refuse to vote the supplies for the government; in other words, you will starve it to death. That is the proposition we have debated.

My distinguished friend from Virginia [Mr. Tucker], who has come nearer meeting this case with argument than any other man on that side, has made a point which I respect as an evidence of the gallantry of his intellect. He says that under our Constitution we can vote supplies to the Army but for two years; that we may impose conditions upon our supplies, and if these be refused the Army ceases to exist after the 30th of June next. In short, that the annual Army bill is the act of reconstituting the Army. He is mistaken in one vital point. The Army is an organization created by general laws; and so far as the creation of officers and grades is concerned, it is independent of the appropriation bills. The supplies, of course, come through appropriation bills. I grant that that if supplies are refused to the Army, it must perish of inanition. It becomes a skeleton; but its anatomy was created by general law, and it would remain a skeleton, your monument of starvation. The gentleman from Virginia says, "Unless you let us append a condition which we regard a redress of grievances, we will let the Army be annihilated on the 30th day of next June, by withholding supplies." That is legitimate argument; that is a frank declaration of your policy. Let us examine the proposition. What is the "grievance" of which the gentleman complains? He uses the word "grievance" in the old English sense, as though the King were thrusting himself in the way of the nation by making a war contrary to the nation's wish. But his "grievance" is a law of the land—a law made by the representatives of the people—by all the forms of consent known to the Constitution. It is his "grievance" that he cannot get rid of this law by the ordinary and Constitutional method of repeal. [Applause.] When he can get rid of any law by the union of all consents required to make or unmake a law, he gets rid of it lawfully, whether it be a grievance or a blessing. But his method is first to call a law a "grievance," and then try to get rid of it in defiance of the processes which the Constitution prescribes for the law-making power of the nation. I denounce his method as unconstitutional and revolutionary, and one that will result in far greater evil than that of which he complains.

If he goes to the American people with the proposition to annihilate our Army on the 30th day of June next, unless the President, contrary to his conscience, contrary to his sense of duty, shall sign whatever Congress may send him——

[Here the hammer fell.]

Mr. KEIFER obtained the floor, and yielded his time to Mr. GARFIELD.

Mr. GARFIELD. I say, if the gentleman from Virginia puts that proposition before the American people, we will debate it in the forum of every patriotic heart and will abide the result. If the party which, after eighteen years' banishment from power, has come back, as the gentleman from Kentucky [Mr. Blackburn] said yesterday, to its "birthright of power," or "heritage," as it is recorded in the Record of this morning, is to signalize its return by striking down the gallant and faithful Army of the United States, the people of this country will not be slow to understand that there are reminiscences of that Army which these gentlemen would willingly forget, by burying both the Army and the memories of its great service to the Union in one grave. [Applause.]

We do not seek to revive the unhappy memories of the war; but we are unwilling to see the Army perish at the hands of Congress, even if its continued existence should occasionally awaken the memory of its former glories.

Now, let it be understood once for all, that we do not deny, we have never denied your right to make such rules for this House as you please. Under those rules, as you make or construe them, you may put all your legislation upon these bills as "riders." But we say that, whatever your rules may be, you must make or repeal a law in accordance with the Constitution, by the triple consent to which I referred the other day, or you must do it by violence.

Now, as my friend from Connecticut [Mr. Hawley] well said, if you can elect a President and a Congress in 1880, you have only to wait two years, and you have the three consents. You can then, without revolution, tear down this statute and all the rest. You can follow out the programme which some of your members have suggested, and tear out one by one the records of the last eighteen years. Some of them are glorious with the unquenchable light of liberty; some of them stand as the noblest trophies of freedom. With full power in your hands, you can destroy them. But we ask you to restrain your rage against them until you have the lawful power to smite them down.

My friend from Virginia, whom I know to be a master and lover of mathematics, has formulated his argument into an equation: "Right equals duty plus power." Now, I say to the gentleman that his sense of duty resides in his own breast; but power, the other factor of the second member of his equation, must be found, not in his conciousness, but in the Constitution of the United States. His notions of duty lead him to tear down the laws which the Republic enacted to protect the purity of national elections and to use such force as may be necessary to keep the peace while the national voice is finding expression at the polls. That, I say, is his notion of duty, of which he is sole arbiter; but when he comes to superadd power, in order to complete his "right" as a legislator, I hope he will not evoke that power out of his conciousness, but will seek for it in the great charter, the Constitution of the United States. According to his own algebra, he must have both these elements before he can claim the "right" to overturn these laws which he denounces as grievances.

Now, Mr. Chairman, let me add a word in conclusion, lest I may be misunderstood. I said last session, and I have said since, that if you want this whole statute concerning the use of the Army at the polls torn from your books, I will help you to do it. If you will offer a naked proposition to repeal those two sections of the Revised Statutes named in the sixth section of this bill, I will vote with you. But you do not ask a repeal of those sections. Why? They impose restrictions upon the use of the Army, limiting its functions and punishing its officers for any infraction of these limitations; but you seek to strike out a negative clause, thereby making new and affirmative legislation of the most sweeping and dangerous character.

Your proposed modification of the law affects not the Army alone, but the whole civil power of the United States. "Civil officers" are included in these sections; and if the proposed amendment be adopted, you deny, to every civil officer of the United States, any power whatever to summon the armed posse to help him enforce the processes of the law. If you pass the section in that form, you impose restrictions upon the civil authorities of the United States never before proposed in any Congress by any legislator since this government began. I say, therefore,

in the shape you propose this, it is much the worst of all your "riders." In the beginning of this contest we understood that you desired only to get the Army away from the polls. As that would still leave the civil officers full power to keep the peace at the polls, I thought it was the least important and the least dangerous of your demands; but as you have put it here, it is the most dangerous. If you re-enact it in the shape presented, it becomes a later law than the supervisors and marshals law, and *pro tanto* repeals the latter. As it stands now in the statute-book, it is the earlier statute, and is *pro tanto* itself repealed by the marshals law of 1871, and is therefore harmless so far as it relates to civil officers. But if you put it in here, you deny the power of the marshals of the United States to perform their duties whenever a riot may require the use of an armed posse.

The gentleman from Maryland [Mr. McLane] said, the other day, there was nothing in the Constitution which empowered any officer of the United States to keep the peace in the States. A single sentence, Mr. Chairman, before your hammer falls. I ask that gentleman to tell us whether the United States has no power to keep the peace in the great post-office in Baltimore City, so that the postmaster may attend to his duties; whether we have not the power to keep the peace along the line of every railroad that carries our mails, or where any post-rider of the "star service" carries the mail on his saddle; whether we have not the right, if need be, to line the post-road with troops, and to bring the guns of the Navy to bear to protect any custom-house or light-house of the United States? And yet, if the gentleman's theory be correct, we cannot enforce a single civil process of this government by the aid of an armed posse without making it a penitentiary offense on the part of the officer who does it. [Applause on the Republican side.]

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3. LEGISLATIVE APPROPRIATION BILL.

NATIONAL ELECTIONS SHOULD BE PROTECTED BY NATIONAL AUTHORITY.

The House, being in Committee of the Whole on the state of the Union, and having under consideration the legislative appropriation bill, on the 26th of April, 1879—

Mr. GARFIELD said: Mr. Chairman, I move as an amendment to the pending bill to strike out lines 2006 to 2064 inclusive, commencing with the proviso.

I had intended to speak somewhat elaborately upon this bill, but I have preferred to give way for the sake of allowing those who had not spoken an opportunity to be heard.

I would not rise now to ask the attention of the House at all but for the sake of correcting a few plain misapprehensions and evasions in this debate. The gentleman who has just taken his seat, [Mr. Ewing] has said that I have led in an attempt to raise sectional feeling in the North against the patriotic people of the South. It is the old and absurd cry of a sectional North and a national South; that is, the thirty million people of the North, and their Representatives, of whom he is one, are sectional, passionate, unkind; and the fifteen million of "national-minded and patriotic" people of the South are suffering from the narrow and unjust sectionalism of the thirty million among whom my colleague and I live!

The gentleman reminds me of what he was pleased to call a patriotic sentiment of mine, uttered at the last session of Congress, when I said what I am glad to have remembered, that in my judgment the man or political party who sought to raise sectional issues and revive the unhappy passions that ought to sleep in the graves of our dead on both sides was not patriotic, nor would he find an echo to his sentiments in the hearts of the best people of this country. I said that deliberately, with all the meaning that the words import.

The blindness that leads my colleague to call two-thirds of this nation sectional, also leads him to think my denunciation of those who reawaken old sectional strife can apply only to Republicans. Let him not forget the origin of the present controversy. Who raised this unhappy issue? Did any Republican begin it? Was it not brought here by the predetermined caucus action of the Democractic party? Was it not embodied in the declaration of your Senators and members that if you could not force certain acts of legislation upon the statute-book you would never grant supplies for the support of the government? That was the party and that was the act which raised this controversy, involving an issue never raised before in this nation; and, because we meet it and denounce it, you declare that those who stand by orderly and constitutional methods are sectional, and you who make the innovation are national!

Gentlemen, I took upon myself a very grave responsibility in the opening of this debate when I quoted the declarations of leading members on the other side and said that the programme was revolution and, if not abandoned, would result in the destruction of this government. I declared that you had entered upon a scheme which if persisted in would starve the government to death. I say that I took a great risk when I made this charge against you as a party. I put myself in your power, gentlemen. If I had misconceived your purposes and misrepresented your motives, it was in your power to prove me a false accuser. It was in your power to ruin me in the estimation of fair-minded, patriotic men, by the utterance of one sentence. The humblest or the greatest of you could have overwhelmed me with shame and confusion in one short sentence. You could have said, "We wish to pass our measures of legislation in reference to elections, juries, and the use of the Army; and we will if we can do so constitutionally; but if we cannot get these measures in accordance with the Constitution, we will pass the appropriation bills like loyal Representatives; and then go home and appeal to the people."

If any man, speaking for the majority, had made that declaration, uttered that sentence, he would have ruined me in the estimation of fair-minded men, and set me down as a false accuser and slanderer. Forty-five of you have spoken. Forty-five of you have deluged the ear of this country with debate; but that sentence has not been spoken by any one of you. On the contrary, by your silence, as well as by your affirmation, you have made my accusation overwhelmingly true.

And there I leave that controversy. The assaults upon my speech have been, from the beginning to the end, evasions of the issue. What have you said? Not less than thirty of you, in spite of my plain and emphatic declarations to the contrary, have insisted that I said it was revolutionary to put a rider on an appropriation bill, a thing that no man on this side of the House has said. You were guilty, gentlemen, and in this I include the gentleman from Pennsylvania [Mr. Kelley], of what Sidney Smith once called "an indecent exposure of your intellects."

Mr. KELLEY. Did I misunderstand you when I said that your speech which lay before me had the title of "Revolution in Congress," and said if the gentleman believed that doctrine now he had undergone a mental revolution?

Mr. GARFIELD. The gentleman should not confine his reading to the title. If he had read my speech as well as its title, he would have read that in 1872, in the debate to which he referred, the Democratic party on this floor said we should not consider an appropriation bill at all. I said to them, "You have a right to vote against it; you have a right to filibuster to get a chance to speak on it if need be; but when you say that the majority shall not act on an appropriation bill at all, because there is a rider on it, that is parliamentary revolution"; and so I say to-day, and the gentleman quoted that as though it were inconsistent with my present position, which is as that of 1872, that to refuse to act on the appropriations is revolutionary. In 1872 the Democracy said the appropriation bill should not be acted on at all because a rider was on it. Now they say the appropriation bills shall not be acted upon at all unless there are "riders" on them. I resisted their position then, and I resist it now.

There is another point which I must touch to show the evasions which have been resorted to in this debate. The other side seeks to go before the country on pleas like this which stands as the heading of the speech of the distinguished gentleman from Virginia [Mr. Tucker]: "Elections by the people must be free from the power and presence of the standing Army." They seek to make the people believe that Democrats in Congress are struggling to get the bayonets away from the breasts of the voters, and that we are striving to keep the Army at the polls. The Democratic press is everywhere stating the issue in this way, that the Republicans are defending an odious law, enacted amid the passions of the war, to authorize the use of the Army at State elections.

Now, "mark how plain a tale shall put that down." On this side, this proposition was made: If you find fault with the law of 1865 we will help you repeal it altogether. On the motion of the distinguished gentleman from Michigan, [Mr. Conger] every Republican on this floor who voted at all, when the Army bill was here, voted to repeal *in toto* the law of 1865, which you complained of to the people as putting the bayonets at the breasts of the voters; and every Democrat, who sits here and voted at all, voted "No." You would not repeal the law, but you told the people we were trying to keep it on the statute-books, and you were trying to get it off.

Now, Mr. Chairman, our vote on that subject has put us beyond all cavil on this high and unassailable ground. We are willing and we have voted to repeal the whole of that law, and we even went so far as to put that repeal on the Army bill, and you voted against it. Now, never again go to the people and say you tried to repeal the odious law of 1865 and the Republicans would not let you.

My colleague [Mr. Ewing], who has just taken his seat, says that the sections sought to be repealed by the bill now before us, authorize unwarrantable and unconstitutional interference with elections in the States. He says that the supervisors and marshals are intruders at the election of Congressmen; that they have no constitutional right to be there, even as witnesses. Gentlemen, I never believed in State rights to the extent you did and do; but there is one thing concerning which I have always thought that the States came very near being sovereign. I suppose that all our States claim the right to have a legislature of two houses, each house with a right to make its own rules, sit in its own separate chamber, pass measures according to its own rules, and regulate the conduct of its own clerks. Yet, gentlemen, if you will read from sections 14 to 19 of the Revised Statutes, you will find that the following has been done: The supreme power of the United States, by force of national law, has gone into the legislature of every State in

this Union, and said to them, "There is a certain Tuesday, the second Tuesday after you have organized, when you shall not fix your own time of meeting; when you shall not even adjourn over. You shall meet at twelve o'clock. When you meet you shall not vote by ballot; you shall vote *viva voce*. Your clerk shall call the roll. You shall vote for a Senator." The law prescribes how the clerks of both houses shall make the entries in their journals. If there is no election, the clerk shall certify it; and then this national authority says: "If there is no election by the separate vote of the two houses the second day, I take your two houses and consolidate them into one. I abolish the distinction between senator and representative, put them into one hall and hold them in joint session from day to day, and they shall vote as one body until a Senator is elected."

Who does all that to State legislatures? It is done by a law of the United States passed in July, 1866; and no Democrat has denounced it as unconstitutional; no State legislature has made any opposition to it; and every one of the seventy-six Senators now at the other end of this Capitol, holds his seat in pursuance of the operation of that law.

Now, if we do all that unchallenged to the legislature of a sovereign State, who will say that we cannot go among our own citizens and supervise and protect our own ballot-boxes where men are to be elected to seats on this floor? Your constitutional question is given away when you admit the supervisions there, as you do in this bill; still more decisively it is given away by the universal acquiescence in the law for electing Senators.

The great danger which threatens this country is, that our sovereign may be dethroned or destroyed by corruption. In any monarchy of the world, if the sovereign be slain or become lunatic, it is easy to put another in his place, for the sovereign is a person. But our sovereign is the whole body of voters. If you kill or corrupt or render lunatic our sovereign, there is no successor, no regent to take his place. The source of our sovereign's supreme danger, the point where his life is vulnerable, is at the ballot-box, where his will is declared; and if we cannot stand by that cradle of our sovereign's heir-apparent and protect it to the uttermost against all assassins and assailants, we have no government and no safety for the future. [Applause.]

Mr. EWING. I hope the House will allow me to ask the gentleman a question and him to reply. I ask the gentleman, may we therefore authorize United States supervisors to inspect the officers of the house and senate of each State as to the manner of election when electing a United States Senator, and appoint marshals to back up the supervisors, and send out the Army to back up the marshals?

Mr. GARFIELD. Not at all. The gentleman from New Jersey [Mr. ROBESON] answered that by anticipation.

Our Constitution adopted the legislatures of the States as our agents to elect Senators at the times and in the manner which Congress may by law direct. They were adopted as bodies organized under State laws.

For the election of Representatives to this House, we may set up all our own machinery if we please. We may adopt the State machinery, and superadd our own national superintendence and safeguards; and the safeguards which have already been established we will maintain and defend. [Applause.]

4. SECOND ARMY APPROPRIATION BILL.

The House being in Committee of the Whole on the State of the Union, on the second Army appropriation bill, June 11, 1879—

Mr. GARFIELD said: Permit me, Mr. Chairman, to recount, ver briefly, the steps which have been taken in regard to this Army appropriation bill in connection with the legislative bill. At the close of the last session, those two bills were prevented from passing, upon the alleged ground that there were three grievances in the form of laws which gentlemen on the other side said must be redressed by repeal before they would vote the appropriations necessary to carry on the government. One grievance was set forth in a vague general charge, but not well founded, that there was a law upon the statute-book that authorized military interference with elections. The second was that the jurors' test oath, made necessary by the war, was now a hardship and a grievance. The third was that the several sections of the law relating to supervisors and marshals at national elections were a grievance which must be removed by repeal. And we were told, in the most unequivocal language, by the Democratic leaders in both Houses, that the $45,000,000 needed for the maintenance of the civil and military functions of the government should never be appropriated until these statutes were repealed.

In response to these demands, we declared our willingness on this side of the House, first, to pass a bill which the Senate, a Republican Senate, sent to us repealing that section of the statute which prescribed a test oath for jurors. We were ready then, we are ready now, to pass that bill just as the Senate sent it to us at the last session. Second, we said then, we have frequently repeated the offer this session, and we say now, that we have never voted for a law to make use of the Army to run elections. We have said repeatedly that there never was in this country and there is not now such a law; and we do not desire such a law or such a practice; and that, if any act was needed to prevent the running of elections by bayonets, we were ready to help prevent it. These two propositions we offered at the close of the last session, in order to remove any real or apparent ground of complaint on those two scores, provided that on the other side, the third demand, namely, the repeal of the laws relating to supervisors and marshals, should be abandoned.

These offers were rejected with arrogant contempt; and the extra session was forced upon the country. A struggle of nearly three months has followed. Nearly all the legislative appropriations have now passed this House without conditions or change of the laws.

With this general review I shall now confine my remarks wholly to the history of the Army appropriation bill. Soon after this session began, we were tendered an Army bill that had in it not a repeal of the law of 1865, alleged to be an offense—not that; for we tendered that, and 109 Republicans voted to repeal it, and not one Republican voted against the repeal while every Democrat in this House voted against its repeal. Instead of a repeal, it was proposed so to modify the law of 1865 as to enlarge its restrictions beyond the Army and Navy and make it a crime, punishable by imprisonment or fine, for any civil officer of the United States to employ any armed force, soldiers or citizens, to keep the peace at the national elections. In other words, we were tendered a proposition which swept the whole circle of the civil powers with its prohibitions, and prevented the civil authorities of the nation from pre-

serving the peace at the elections of our national legislature or protecting supervisors in the execution of their duties.

That assault upon the law we resisted as one man. But while we resisted, we protested that we were not and never had been advocates of running elections by bayonets.

Though that bill, with its revolutionary menance, passed both Houses, it was wrecked upon the rock of the Constitution, and went down, leaving not a spar afloat on the face of the political waters.

A MEMBER. It met with a veto.

Mr. GARFIELD. Yes; it met the veto with which the Constitution had wisely armed our Chief Magistrate. Then came the second chapter. A short bill of six or eight lines was introduced, not merely repealing the military provisions of the law of 1865, but in effect declaring that the Army of the United States should not be used to enforce any of the laws of the Union anywhere, at any time when an election was being held. We pointed out the fact that the bill would smite with paralysis the executive authority of the nation during two, three, five, ten, or possibly a hundred days of every year; that under its provisions even the property of the nation could not be protected from destruction at any place where any election was being held. This violent measure was also passed by the solid Democratic vote of both Houses; but, like its predecessor, it ran against the rock of the Constitution and went to the bottom [applause on the Republican side], and only bubbles mark the spot where it went down.

And now we have before us another bill making appropriations for the support of the Army. Before considering its other provisions, I turn aside to congratulate the country and the Army that so many gentlemen on both sides have finally consented to strike out the ninth section, which would have proved a hardship to the meritorious officers of the Army by stopping promotions for an indefinite period; and I tender my compliments and thanks to the distinguished gentleman from Virginia [Mr. Johnston] who made the motion. The country and the Army will not forget it. I believe the appropriations made in this bill are sufficient for the support of our military establishment, and no laws in reference to which there is any controversy are repealed by it.

This brings me to the consideration of the only provision about which there is any question. It is the sixth section, and I will read it:

SEC. 6. That no money appropriated in this act is appropriated or shall be paid for the subsistence, equipment, transportation, or compensation of any portion of the Army of the United States to be used as a police force to keep the peace at the polls at any election held within any State.

My first observation is, that this section does not profess to repeal, and does not repeal, any law of the United States. There is not now and, so far as I know, there never was on our statute-book a law which authorized the use of the Army "as a police force" at the polls; and even if this section were a repealing clause, there is nothing on which it can operate as a repeal.

But whatever the section means, it is in the form of a limitation for the coming year upon the objects to which the appropriations are to be applied. It is declared that this money is not "appropriated for the subsistence, &c., of any portion of the Army to be used as a police force to keep the peace at the polls." I affirm, without fear of successful contradiction, that this limited and indirect prohibition does not apply to any law or to any practice known in this country.

Mr. HAWLEY. Not since the Kansas troubles.

Mr. GARFIELD. Certainly not since the Kansas troubles. And, furthermore, I do not know of a man in this House who is in favor of using the Army of the United States as an ordinary police force to run elections. [Applause on the Democratic side and counter-cheers on the Republican side.] There are, I believe, about forty thousand polling-places in the United States. If our Army roster was full—officers, soldiers and camp followers—we would not have over twenty-five thousand in all. And if there were a law for using the Army as a police force at the polls, we should have about three-fourths of one soldier to each polling place.

Now, if anybody proposes to deploy our Army in that way I do not know where the lunatic lives. I speak for myself, and of course for everybody who thinks as I do, and for nobody else. We hold two things: first, that we will not, if we can help it, let vital and righteous laws be repealed or nullified as the condition of getting an appropriation to support the government. We have resisted, and will resist to the end, all such measures. And, in the second place, even under the pressure of party feeling and party opposition, we will do no act and cast no vote that will place us really or apparently in any attitude inconsistent with the old and recognized principles and traditions of English and American liberty, namely, that civil, not military, force is the usual, the safe, the American method of keeping peace at the polls.

That no one may misunderstand me, let me put the case thus: Suppose some one should offer the following as a substitute for this section:

Be it enacted, &c., That it shall be lawful for the President of the United States to use the Army or any portion of it as a police force to keep the peace at the polls at any election held within any State.

Is there a man in this House that would vote to make that a part of our law? If there be one, let him speak. [A pause.]

Mr. FINLEY. Did not the gentleman vote for a proposition substantially that?

Mr. GARFIELD. Never in my life, nor anything like it.

Mr. FINLEY. The vote of the gentleman last session was precisely that in effect.

Mr. GARFIELD. The gentleman is utterly mistaken. Now, if no one would vote to enact into law the thing which this section says is not appropriated for, how can any one hold that the section prohibits anything that ought to be done?

I say, for one, that in so far as this section indicates the relation between the civil and military arm of the government in the conduct of elections it meets my cordial concurrence; and a vote for the section will put at rest the reckless and false charge that this side of the House desire to run elections by bayonets.

I admit, as my friend from Indiana [Mr. Baker] has said, that the section is mere surplusage. It does not repeal or change any existing law; but if its framers think that by offering it they expect to gain a party advantage by getting me, or those with whom I act, to cast a vote that implies that the Army ought to be used as an ordinary police at elections they are greatly mistaken; for they have set a very open trap, baited with a very small piece of very poor cheese.

Now, Mr. Chairman, a word further in reference to the language of the section. Some gentlemen may be troubled about the scope and meaning of the words "to be used as a police force." Let me recall a little history. When flagrant war was raging, when eleven States were banded against the Union to destroy it, and the theater of war spread over five or six States that adhered to the Union, there was in

fact military interference at the elections; it was the military interference of the armed enemies of the United States.

I once voted at an election where there was very serious military interference. In the autumn of 1862 under the heights of Missionary Ridge, near the city of Chattanooga, when 5,000 Ohio soldiers under the laws of that State were permitted to vote, I in company with my comrades voted for a governor of Ohio.

While we were voting, the shells from the batteries of armed enemies of the United States were bursting over our heads, and some of our voters were killed while in the exercise of their right of suffrage as citizens of Ohio. That was the only military interference with elections that I ever witnessed. [Applause on the Republican side.] Now, it was to prevent that kind of military interference that the armies of the United States in time of war kept off the armed enemies of the United States in the State of Kentucky and in other border States while elections were being held there. And in order that, in the performance of that necessary duty, they might not interfere with the freedom of elections and the right of citizens, the act of February, 1865, was passed while our guns were yet smoking and while we were yet in line of battle. Even in that act it was provided, under the severest penalties of criminal law, that no officer, civil, military, or naval, should interfere with the right of any man to vote, or should undertake to prescribe qualifications for a voter.

Now, I say that the act of 1865 was in the interest of civil liberty, restraining our armies from doing any wrong or committing any outrage. And in that act there occurs for the first time in the history of our legislation connected with the Army the expression "to keep the peace at the polls." And even there it is used for the purpose of saying that the law does not make it a crime punishable by imprisonment and fine for an officer of the government to "keep the peace at the polls" or to repel the armed enemies of the United States. Nothing in that law refers to the use of the Army as an ordinary police force. The marshals and their deputies are the police force of the United States. Our Army is governed by the rules and articles of war, and is always used as an army when it is ordered to execute the laws.

The proposition to use our Army as a police, to send the soldiers out and station them one by one at the polls to run the elections as a police, is a fiction so absurd that I trust no man on this side of the House will give the least color to the assumption that he favors it by holding that this sixth section repeals, suspends, or modifies any existing statute.

Mr. WILLIAMS, of Wisconsin. Will my distinguished friend allow me to submit to him one question, which he will understand I put in the utmost good faith.

Mr. GARFIELD. Certainly.

Mr. WILLIAMS, of Wisconsin. It is this: Are you now in favor of using any portion of the Army of the United States at any time, under any circumstances, in any emergency, to keep the peace at the polls?

Mr. GARFIELD. Not in the sense of using that Army as an ordinary police force.

Mr. WILLIAMS, of Wisconsin. In any form or manner?

Mr. CARLISLE. This section does not refer to the use of the Army as an ordinary police force. I do not mean as an ordinary civil police, but in any form whatever. Is the gentleman in favor of using the Army in any form whatever to keep the peace at the polls?

Mr. GARFIELD. I am in favor of using the Army and the Navy and all the militia of the United States to enforce the laws of the United

States, any one of them and all of them, everywhere, and at all times when the civil force is inadequate, but not until then.

Mr. WILLIAMS, of Wisconsin. Including the keeping of the peace at the polls. [Laughter on the Democratic side.]

Mr. GARFIELD. If there be any law that authorizes the President to use the Army as an ordinary police force for that purpose I am in favor of enforcing it.

Mr. WILLIAMS, of Wisconsin. Does my friend think that we have that law, or does he think that we do not have it?

Mr. GARFIELD. I think we have not; that we never have had it, and that we never ought to have it. The marshals and their deputies are our police.

Under our laws, at the present moment, we have the amplest power to add deputy marshals and assistant marshals in any number that may be needed to keep the peace at the polls, and those marshals may summon the posse, the armed posse of all faithful citizens who will obey the orders of the marshals and keep the peace at the polls. This is the traditional law of English-speaking people.

Now, if my friend from Wisconsin [Mr. Williams] will remember, it was distinctly provided in the law of last year that the Army of the United States should not be used as a part of the *posse comitatus* in any case except where the law expressly provided that it should be so used. Therefore, in the presence of that restrictive legislation, passed almost unanimously by a Republican Senate—although I and my friend voted against it in the House; yet it was finally concurred in without a division—in the presence of that restrictive legislation, I say there is no law in the United States to which this sixth section can attach itself, either as a repealing or as a modifying clause.

Therefore I say in conclusion that whatever use may be made of this section as party literature, it is evident to me that, in the judgment of lawyers and courts and executive officers of the government, it will be regarded merely and only a stump speech, changing no law and having no legal effect whatever. I shall vote for the bill.

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5. JUDICIAL APPROPRIATION BILL.

The House being in Committee of the Whole House on the state of the Union on the judicial appropriation bill, June 10, 1879—

Mr. GARFIELD said: Mr. Chairman, those provisions of this bill which itemize the expenses of the courts, are in the right direction, the direction of economy and a prudent regard for the safe disbursement of the public funds. I welcome them in this respect as in pursuance of a policy which we ought always to approve.

In so far as the bill creates unnecessary deficiencies, as has been stated by the gentleman from New York [Mr. Hiscock], it is objectionable. The fair and manly course for the House to pursue is to appropriate what is fully adequate, and no more, to meet the expenses of the current fiscal year. The opposite course has been frequently pursued by political parties; but, in the long run, it has been found to be wise to make an apparent reduction of expenditures knowing that the supplies withheld must be made up by subsequent deficiency bills. There is no real gain to any party in the long run; and it is a bad way to man-

age the fiscal affairs of the government. I hope, therefore, whatever amendment this bill may need in that respect will be made, and that the full amount required for the actual service of the year will be added.

In reference to the two clauses which have been referred to by the gentleman from New York, and which are found on pages 2 and 3 of the bill (which I have a copy of only by borrowing it from a member of the committee), I will make a few observations. It is not a valid objection against the passage of an appropriation bill that it does not embrace all the objects for which appropriations should be made. We cannot justly vote against appropriations which are proper in themselves merely because the amounts are not large enough.

But there is a clause at the end of the first section which is something more than a mere omission to make a necessary appropriation; I read it: "No part of the money hereby appropriated is appropriated to pay any salaries, compensations, fees, expenses, under or in virtue of title 26 of the Revised Statutes." It is fair to inquire whether those statutes do not command the executive officers of the government to perform some positive duty, and whether by this clause we are not only neglecting to appropriate, but are virtually nullifying the law by preventing its enforcement. If the clause which I have read stood alone, it would be less objectionable; but taken in connection with the second section, which I will read presently, it amounts to a legislative prohibition, for one year, to enforce the provisions of title 26. The sections of that title are the laws which this House and the Senate have vainly tried to repeal, but have found they have not the constitutional power to do so. We were told, in the outset, that these laws should be repealed or no appropriations would be made. But it has been demonstrated to the most unobservant, that the present Congress is powerless to repeal these laws, and the attempt has been wisely abandoned. The chief amounts needed for the support of the civil departments were appropriated in the bill which we passed yesterday, with no provision for repealing or modifying the law; but now the Committee on Appropriations propose a bill by which, for the coming year, these laws shall be not repealed, but not enforced—nullified.

Now, gentlemen, that is only an indirect way of doing temporarily, for one year, what you have no constitutional authority to do absolutely and permanently. This provision ought to be stricken out. As I have already intimated, the clause to which I have referred draws its evil inspiration from the provisions of the second section, which I will now read:

> That the sums appropriated in this act for the persons and public service embraced in its provisions are in full for such persons and public service for the fiscal year ending June 30, 1880; and no department or officer of the government shall, during said fiscal year, make any contract or incur any liability for the future payment of money until an appropriation sufficient to meet such contract or pay such liability shall have first been made by law.

Now, Mr. Chairman, let us consider the effect of this section upon existing law.

Mr. COX. I desire to ask the gentleman whether what he has just read is not substantially the law now?

Mr. GARFIELD. My remarks will soon answer the gentleman. In 1870, in order to prevent the extravagant use of the public money, Congress passed a law restricting the expenditures for any one year to the appropriations made for that year; that is, if the appropriations made for the year were not sufficient, a deficiency must be asked for. Unexpended balances, remaining from previous years, could not be applied to

meet deficiencies. This was a wise provision. Then it was found that there was a tendency to incur obligations by making contracts, such as for the rent of buildings, the lease extending over a series of years ahead. Thus obligations were incurred for which no appropriations of money had been made. To check that tendency, section 3679 of the Revised Statutes was enacted in these words:

No department of the government shall expend, in any one fiscal year, any sum in excess of appropriations made by Congress for that fiscal year, or involve the government in any contract for the future payment of money in excess of such appropriations.

Now, *in pari materia*, as part of the same general prohibition, gentlemen will find, in section 3732, this enactment:

No contract or purchase on behalf of the United States shall be made, unless the same is authorized by law or is under an appropriation adequate to its fulfillment, except—

But here is an important exception that gentlemen appear to have overlooked, and it answers the question of the gentleman from New York [Mr. Cox]—

Except in the War and Navy Departments, for clothing, subsistence, forage, fuel, quarters, or transportation; which, however, shall not exceed the necessities of the current year.

Perhaps this section may throw a little side-light on another bill which is shortly to be before us in regard to feeding, clothing, and transporting the Army. Under the laws as they now stand, if Congress neglects to pass the regular appropriation bills, or if the appropriations run out, still the Army is to be fed and not starved, clothed and not left naked, transported to points of danger and not left idle and useless. So also with the Navy. But here is a section which, for one year, nullifies section 3732, for it makes no exception.

Mr. CARLISLE. Did not the act of 1870 repeal all that?

Mr. GARFIELD. No, sir.

Mr. CARLISLE. Why not?

Mr. GARFIELD. Because of the exception which I have just read with reference to the Army and the Navy, which has never been construed as repealed.

Mr. CARLISLE. You have read the exceptions in the act of 1861; but the act of 1870, a later statute, contained no exceptions whatever.

Mr. GARFIELD. I have read to the gentleman from the Revised Statutes now in force two exceptions which must be construed together; one does not repeal the other.

Mr. CARLISLE. How did that provision get there?

Mr. GARFIELD. It is enough for me to know that this is the law. Both sections have been adopted by Congress in the revision of 1874. But this is not all. Besides nullifying the exceptions of that section for the coming year, there is imported into this second section of the bill a new term. Before this, outside of these exceptions, a department could not make a contract, a written contract, binding the government to pay money for an object for which no appropriation had been made.

That was wise and judicious, for it prevented the departments from entering into large schemes that bound the government in advance of the action of Congress. But here is another expression not known in our existing statutes:

No department or officer of the government shall * * * make any contract *or incur any liability.*

Here is a provision which is much broader than any that can be found in the statutes, as every lawyer will concede. "Incur liability." What does that mean? Suppose the President of the United States should think it important to send a minister extraordinary to some foreign court, being authorized thereto by the Constitution, and in an emergency should send him. Would he incur liability? Certainly. Suppose he had been ordered by Congress to do it. Suppose it was made mandatory under the law, but there happened to be no special appropriation for it, and he should make the appointment. Would he "incur liability" for which an appropriation had not first been made? Suppose it should so happen that a new judicial district had been created by act of Congress, and the President should be ordered by the law to appoint a judge, but there happened to be no appropriation for the salary of the judge. The President in appointing that judge according to law incurs a liability for the government to pay the salary. In short, any executive act of his which by law he is commanded to perform, he is here forbidden to perform, during the coming year, because in doing so he incurs a liability for which an appropriation has not been specially made in advance.

The object of this legislation is plain. During the coming year there is to be an election for members of Congress in the State of California, and one in the Westchester district of New York to fill a vacancy; and this legislation is leveled at these elections, so that neither the courts nor the United States marshals shall appoint deputy marshals to act as official witnesses or to keep the peace at those elections, in order that the United States may be properly and lawfully present at the creation of its own legislators. This legislation is an attempt to defeat and cripple the power of the United States to be present at those two elections which are to be held during the coming summer. It is an attempt to accomplish by indirection what cannot be done by an open and plain repeal.

Now, Mr. Chairman, as we have successfully resisted the repeal of righteous laws, in spite of the threat that the appropriations would be refused, none the less will we resist their nullification. The chapter of forced repeal seems to have been closed. Gentlemen have abandoned it. But the chapter of nullifying laws is now opened. Again we stand upon the unassailable proposition that not only shall these just laws remain upon the statute-book, but that they shall be executed.

If you do not appropriate the money we cannot help ourselves. We are powerless to appropriate it without your aid. You are the majority; but not by our consent shall you nullify a law which the Constitution does not permit you to repeal. I will now hear the gentleman from Illinois.

Mr. SPRINGER. I rose to ask the gentleman the question whether it was not within the province of a majority of this House and of the Senate to withhold appropriations for any purpose that they might desire.

Mr. GARFIELD. Oh, yes.

Mr. SPRINGER. What complaint, then, have you to make against the majority of this House and of the other House for refusing appropriations for objects which they deem subversive of the rights and liberties of the people?

Mr. GARFIELD. I answer the gentleman from Illinois by a quotation from the distinguished gentleman from Virginia [Mr. Tucker], who is not now here. He defined right to be equal to power plus duty. Now you have the power to withhold appropriations for executing the laws, but have you the right? Your power and your duty put together constitute your right in the best sense of the word. Of course you are your own judges of duty. But we are all here, Mr. Chairman, under the

solemn obligation of an oath. We are all sworn before the Searcher of all hearts that we will well and faithfully perform the duties of Representatives under the Constitution. And the Constitution makes it our duty to appropriate the necessary means to enforce the laws. The Constitution provides that the judges, the President, and other officers shall receive a fixed compensation at stated times, and this can only be done by our being faithful to our oaths.

Will the gentleman deny that we are under a solemn obligation to make all the appropriations necessary to carry on the government and execute the laws of the United States? If any gentlemen here see fit to neglect that high duty and violate that great obligation, they must answer to their own constituents, to their consciences, and to God. But, as for me, I hold that to appropriate the money required by the law is my duty; and my vote shall be for the appropriations under the laws as they are, and not coupled with acts which nullify or obstruct them.

There have come into our Treasury during the last year $235,000,000. Every dollar of that money came from the people under the sanction of laws which were passed for the express purpose of raising money for the support of the government. That money is in the Treasury for that purpose; and we are the trustees of that fund under the law and the Constitution. The people paid it without imposing any conditions; they paid it, under the laws as they now exist, to support the government.

Now, therefore, if we, the trustees of that great fund, step in between those for whom we hold the trust and the execution of the trust, and say we will not apply this money according to the laws under which we received it, but will impose conditions of our own different from those under which they paid it, are we not betrayers of a trust, and violators of the Constitution?

During the debate on the second section of the bill, the same day, Mr. GARFIELD said:

Mr. Chairman, I move to amend by striking out in line 6, section 2, the words "or incur any liability." I do that because it will leave the statutes on the subject plain and unambiguous. If these words are out, the remainder of the provision is not unlike what is now in the law, and I think there would be no ambiguity in the section; but if these words be retained, no man can know precisely what he may or may not do without violating the law.

I do not myself think that, strictly and properly construed, this section suspends a number of sections of the Revised Statutes which some gentlemen may think are temporarily repealed; but with these words here they leave an uncertainty hanging over many sections of the Revised Statutes as to what constitutes incurring liability.

I can conceive such a thing as this: The President may appoint a man and may say to him, "Go and do this duty; the law authorizes me to appoint you. You may never receive any pay. You will never receive any unless Congress appropriates it hereafter." Possibly the President would not thereby incur any liability. I presume, when election day comes, the judges can appoint supervisors and the marshals can appoint assistant marshals in the same way. There is certainly nothing here which prevents them from doing their duty; and if they are told at the time of their appointment that they never can have any pay from the government unless Congress should thereafter appropriate it, query, whether any liability has been incurred. I rather think not.

Mr. SPRINGER. I should think there had been.

Mr. GARFIELD. I think not. The liability spoken of here is certainly a pecuniary one. But if the gentleman thinks there is liability, it proves the necessity of making the language clear, which certainly will be done by striking out the words which render it doubtful. [Cries on the Democratic side of "Vote!" "Vote!"] Not quite yet.

Now, if gentlemen have put these words in here to suit two views of this case, so that they can say to one class of their friends, "We have done it," and to others who do not think they ought to have done it, "We have not done it", I say if they have had a double purpose in view, these words are well chosen. But if they have a plain, frank, manly purpose in view, that everybody can understand, they should leave these words out. I think, therefore, for the honor of the House and for the clearness and definiteness of the statutes, these words ought to come out; and in the interest of good legislation I make the motion to strike them out.

Mr. COX. I understand my friend from Ohio to say that he believes United States supervisors and others will be appointed.

Mr. GARFIELD. I did not say they would be, but perhaps they can be——

Mr. COX. That the President and the judges would appoint them under this clause if passed—that they would be appointed.

Mr. GARFIELD. The gentleman will understand I am merely saying if it should be done and they were told they never could have any pay until Congress subsequently appropriated the money—I refer to deputy marshals—I doubt whether that would constitute under this section an incurred liability.

In the debate on the third section, the same day—

Mr. GARFIELD said:

I offer the following amendment:

In line 16, after the word "citizen," insert the words "of good standing"; and strike out all after the word "held," in line 17, down to and including the word "belong," in line 19; so that it will read:

"Which commissioner shall be a citizen of good standing residing in the district in which such court is held."

This will strike out the words:

And a well-known member of the principal political party opposed to that to which the clerk may belong.

I offer this amendment because I am unwilling, if I can prevent it, to allow a statute to pass this House, which, for the first time in the history of this government, injects party politics into our jury laws. The words "political parties" are unknown in our Constitution. There is not a word in the Constitution that indicates such a creation as a political party.

Political parties are probably necessary in all free governments; but there has been one place in the whole circle of our judicial system into which hitherto the word party has never found its place as a part of the law. Our goddess of justice, so far as persons are concerned, is painted blind; but so far as the objects and essence of justice are concerned, she sees the whole world.

Now it is proposed, most unwisely, and I think for the first time in our history, (and I beg the lawyers and judges who sit before me to

think of this.) to put into the jury-boxes a man recognized as a political partisan, and then another beside him recognized as belonging to another political party, to administer justice. One is to do Democratic justice, another Republican justice, another Greenback justice, and so on to the end of the chapter.

If that phrase be planted in our law no man can tell the bitter, bad fruits that it may produce in the future of our jurisprudence.

Let us, gentlemen, have one place where, as lawyers and citizens seeking their rights, there shall be no such thing as politics recognized, but where equal and exact justice will be meted out to all men.

Now, the gentleman from Iowa [Mr. WEAVER] proposed, a little while ago, what was entirely proper, that it should not be confined to two political parties. There may be two, three, four, or five parties—there are perhaps that many in the country—and if you let the idea of party politics get into the law of juries at all, you ought to go through the whole list of parties, to be just or fair.

Let me ask how many clerks of national courts there are whose politics you can really ascertain without an inquest? There are a great many of these clerks who have held their positions during the lives of half a dozen political parties, and who have no political partisanship in them, and who make it a part of their daily bread to keep out of politics. Some of these clerks were in office before the Republican party was born, and do not know to which party they belong. Now, in order to execute this proposed law, you must find out what their political opinions are; you must, in fact, make them partisan before you can appoint a commissioner or impanel a jury.

I beg gentlemen to let this amendment of mine pass, in the interest of law and justice. I hope that the fact that we have been looking into each other's faces and fighting a political battle, has not put the majority into such an attitude that they will reject everything proposed by me or my associates. I should be glad for the sake of justice to see the House agree to this amendment.

In reply to Mr. McMahon, Mr. GARFIELD said:

Mr. Chairman, the gentleman has referred to the electoral commission. He will remember that there was not, in that law, a word which referred to one political party or the other. It was the sense of decency and fair play between the two parties which, after the law was passed, led them voluntarily to put men of both parties upon that commission. The Republican Senate put upon it a fair share of Democrats, and the Democratic House put upon it a proper share of Republicans. But the law said not a word about selecting men from opposite political parties to serve upon the commission. The law was just as this law ought to be—free from the recognition of party politics.

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6. JUDICIAL APPROPRIATION BILL.

NULLIFICATION.

The House having under consideration the conference report of the two Houses on the judicial appropriation bill, June 19, 1879—

Mr. GARFIELD said: Mr. Speaker, we do not insist that this House is obliged to vote all the money which some of us may think necessary for any given purpose. If the majority offer to appropriate for a par-

ticular purpose a part only of the money needed, we would not be justified in voting against the bill merely because the amount is insufficient, for it might be your purpose to supply the deficiency hereafter. But it is certainly an objectionable mode of legislation so to cut down the appropriation bills as to make a deficiency inevitable. This bill is open to that objection; it does not appropriate enough; for it wholly omits a part of the usual supplies. But that objection alone would not prevent this side from voting for it.

The feature of the bill which is most objectionable, and to which we do not and cannot agree, has been well stated by my colleague [Mr. Monroe]. The bill goes beyond appropriations, and proposes by law to lay hold of the executive department of this government and affirmatively prevent its officers from enforcing certain laws of the land. That is the attempt which we resist and shall continue to resist. The objectionable provision is now made definite and unmistakable in this conference report. The language of the clause as it first passed the House was somewhat vague, but here it is plain, and we perfectly understand its import. If any doubt remained, my colleague who presented the report [Mr. McMahon] removed it, by declaring the purpose of the clause. The issue is narrowed down to this: The gentleman tells us that he and his associates are determined that there shall be appointed no marshals, deputy marshals, or assistant marshals to execute the laws of the Union, as embodied in title 26 of the Revised Statutes; that they have devised and agreed on this clause in the conference between the two Houses so as to prevent the enforcement of that part of the existing law. This makes a sharp issue which everybody can understand.

Now, assuming that the gentlemen on the other side do not like these provisions of law relating to elections (and we understand that to be their unanimous sentiment), they ought to propose amendments to them. My colleague who presents this report says that the law has been used for partisan purposes; that marshals, deputy marshals, and assistant marshals have been appointed merely to advocate and advance the political interest of one party at the elections. If that be so, it is a just criticism of the law, and an amendment ought to be offered to correct such an abuse. If my colleague will offer an amendment, or allow us to offer an amendment, so as to put the appointment of deputy and assistant marshals who are to serve in connection with Congressional elections on the same basis as the appointment of supervisors—that is, that they shall be appointed by the courts, and shall be chosen in equal numbers from the different political parties—we will aid him, and the abuse of which he complains can be corrected. But that is not in the line of the gentleman's purpose nor that of his party. They do wish not to better the law, but to annul it. They do not wish the law executed, so long as they have not the power to make the appointments and execute it in their own way.

Recent events have shown them that they cannot repeal these statutes. In the present situation of parties and opinions in Congress it is impossible to repeal them. Those who wish to repeal them have not the constitutional majority to do so. They can no more remove them from the statute-book than they can enact a law without a majority of votes. In short, they have not the constitutional majority to repeal these laws. Not being able constitutionally to repeal them, gentlemen on the other side say, "We will prevent their enforcement." And, in attempting this, they attack the government in a very vital part. They know that the whole country, without regard to party, needs to have the courts of the United States open to all suitors. They know that

ustice ought to be administered in every district and circuit court of the United States.

They know that United States prisoners are locked up, some under sentence of our courts, others awaiting trial; and that the Constitution provides that all who are held under charges shall have a speedy trial. The great duty, the imperative obligation, to provide for the speedy and prompt administration of justice rests upon members of Congress, Republicans and Democrats alike. But the majority of this House have segregated from all the other appropriations of the year this one for the judicial expenses of the government, and now offer an appropriation of two and a half millions of dollars, and say, not to us alone, but through us to the nation and to all the officers of the nation, that this money of the people, which has been paid into the National Treasury for the very purpose of maintaining the courts, shall not be used for that purpose, only on condition that the Democratic party shall be permitted to couple with it a provision that certain laws of the land which they cannot repeal shall not be enforced; nay, more, that for the coming year these laws shall be nullified. In short, we are told that we must submit to the nullification of the election laws, or the courts of the United States shall be closed, the prisoners awaiting trial shall be discharged or shall be held untried, against the constitutional provision in their behalf, and that no provision shall be made even to feed them. It is to be made unlawful to try them, unlawful to keep them, and it is unlawful to discharge them. With these hard conditions you have fettered the appropriations, the use of which reaches to the very vitals of national justice. You say, "Take these appropriations coupled with the nullification of certain laws, or you shall not have them at all."

Gentlemen, we earnestly desire to go home. We have borne the burden of this long, weary, and profitless session until we are anxious to go to our homes and rest and give the country rest. But we cannot, even under the persuasive heat of the dog-star and the pressure of this weary and distasteful work, accept the dishonor which this bill offers. It is a moral bribe to us to consent to the nullification of laws which you seek not to improve but to destroy. We cannot, we will not, consent.

You have retained in this bill a clause which, if it becomes a law, will place the President of the United States between two fires—the fire of this law if he disobeys it, and the fire of Heaven if he violates his oath by obeying it.

Mr. McMahon. Will my colleague allow me to ask him how the President is at all interfered with?

Mr. Garfield. I will answer. The President has taken an oath that he will see to it that the laws be faithfully executed. You do not repeal the election laws, but you make it impossible for him to execute them without violating another. You seek to place him in reach of your impeachment on the one hand or, on the other, compel him to neglect his duty and violate his oath. We have no legal or moral right to put the Chief Executive in such an attitude. The wisdom of the Old Testament proverb, "in vain is the net spread in the sight of any bird," may be fitly applied in this case. I do not see that there is the slightest probability you can catch a bird in this net.

Mr. House. Do I understand the gentleman from Ohio as threatening us with another veto?

Mr. Speaker, we have heard of war and rumors of war in another quarter; but this House, this body, whose members come directly from the

people—the only real sovereigns in this country—has not only not come to blows, but so far as I know have not come to threats.

Mr. HOUSE. The gentleman talks about blows.

Mr. GARFIELD. I say, neither blows nor threats. I am certainly indulging in no threats. I only say you offer a bill for the approval of the Executive which if he approves puts him in a position where he will be involved in a conflict between the Constitution and the law you make.

Mr. HOUSE. What a very frank answer.

Mr. GARFIELD. It is both frank and just. I appeal to you, gentlemen, whether this kind of legislation meets the approval of your best judgment.

Now, I had some hope, when we were told yesterday by my colleague [Mr. McMahon] that the amendment which had come from the Senate was left open so as to enable the conference committee to soften the asperities of this bill—I had some hope that we should see our way through the entanglement by finding a bill which gentlemen on this side could support, and that we might then adjourn, shake hands, and go home. But I am compelled for the present to bid farewell to that pleasing prospect. WE STAY. [Applause from the Republican side.]

II.

DEFENSE OF UNION SOLDIERS OF THE SECEDED STATES.

The Committee of the Whole on the state of the Union having under consideration a proposition to abolish the Southern Claims Commission, April 15, 1879—

Mr. GARFILLD said: Mr. Chairman, the general doctrine of belligerency in a territorial war is one of course understood by everybody to include technically as enemies, all of the inhabitants of the hostile territory. That doctrine is recognized by lawyers everywhere. But nobody, so far as I know, unless it be the gentleman from Wisconsin, has ever denied that, during our late war and since, the Supreme Court has repeatedly determined that the question of loyalty could not be raised against a claimant, if a pardon had been granted him by the President or Congress; that by a pardon disloyalty is wiped out, so far as his legal rights before the court are concerned. This is an answer to all that has been said on that point.

The gentleman from Wisconsin [Mr. Bragg] agrees with me that the amendment of the gentleman from Tennessee [Mr. Young] ought not to be adopted. He thinks, however, that the Southern Claims Commission ought to be abolished, because he says it was a mistake from the first to pay any loyal claims from the South. On that point I take issue with him; and I wish to refer to some official statistics which I prepared at the last session, in view of a statement then made and now repeated in this debate. It was said by the gentleman from Louisiana [Mr. Ellis] that 99 per cent. of all the people of the seceded States were disloyal, in our sense of that word; that almost every Southern man who amounted to anything belonged to that category. I desire to traverse that proposition by some facts. Leaving out of view all the border States, do gentlemen know that there were, from the States that went into secession and rebellion, military organizations amounting to fifty regiments and seven companies of white men who were regularly mustered into our Army and who fought bravely under our flag? I have the official record in my hand. Passing to the border Southern States, which did not secede, but whose people were divided, do gentlemen know that in the State of Kentucky alone more white soldiers fought under our flag than Napoleon took into the battle of Waterloo? more than all the allied armies which Wellington commanded at that battle? Do they not know that Missouri furnished one hundred and eighteen regiments of white soldiers to the Union Army; that the Southern States furnished one hundred and eighty-six thousand colored troops to the Union Army, and that of these ninety thousand were from the States which seceded, and twenty thousand from the State of Kentucky? I say that from the States that seceded and went into the rebellion 50,700 white soldiers fought in our ranks and under our flag. And this statement does not include the thousands of individual men who came into our lines, and joined Northern regiments. To say that these men were enemies and had no legal rights, and that the government should not pay them or their families all proper claims for supplies and other property taken from them by the government they were defending, is a proposition I had hoped no man on either side of this House would make; and I am glad to know that the gentlemen who fought against us in the field do not make it.

Not one of them has yet indorsed it. It remains for one of our own soldiers, the gentleman from Wisconsin [Mr. Bragg], to say that there ought to be nothing paid to any man, however loyal, if he came from the South. I am sure that even this House, consisting so largely of Confederate soldiers, will denounce this proposition as in the highest degree inequitable and unjust. Let the Southern Claims Commission continue until it has acted on the cases now before it, and then let us muster it out; for the cases not already presented are barred by the statute of limitation. Let us not enlarge the claim business, but let us complete it; and most of all, let us not so change the law as to abolish the distinction between loyal and disloyal claims, making the latter payable, which the law has never done.

III.

1. RESUMPTION AND THE CURRENCY.

The Committee of the Whole on the state of the Union having under consideration an amendment to use the reserve provided by law for the redemption of fractional currency, April 10, 1879—

Mr. GARFIELD said:

Mr. Chairman, my colleague [Mr. McMahon] has gone into the whole merits of this question on the point of order. I shall only follow his example to a very small extent. The attempt of my colleague, in the speech he has just made, to set himself, in contrast with me and many others on this side, as the special champion and friend of the soldier, is quite too thin a disguise to deceive anybody. He will remember, as will the House, that this side tried, again and again, to pass a measure authorizing the Secretary of the Treasury to extend the sales of 4 per cent. bonds sufficient to cover this whole case. We brought the House to a vote on that proposition at least twice at the last session, and but for the resistance on the other side it would have prevailed, and the soldiers would have been paid. The responsibility for not paying them rests with those who resisted that measure, not with those who proposed it. We have been selling these 4 per cent. bonds to assure resumption; and that is the law. I think it might fairly be the law that they should be issued to provide for payment of soldiers' pensions.

There is another thing which, perhaps, my colleague did not remember. Under a law of last session we issued bonds to the extent of a quarter of a million of dollars to endow a private institution for the blind, in one of the States of this Union, the endowment being $10,000 a year; and to keep it out of the power of Congress to repeal the act the bonds thus issued were made a part of the permanent debt of the United States, in order to endow an institution in a State—an institution not national in its character. But gentlemen are unwilling to increase the 4 per cent. bonded debt of the United States to pay pensions of our soldiers already provided by law.

Now, I have simply made the point of order, that is all; and no man can torture anything I have said on this point of order into an unwillingness that the soldiers shall have their pensions, or that all necessary legislation shall be had to make the payment prompt and full to secure all their rights. It is altogether too late in the day to tell the soldiers that gentlemen on this side who have remembered them in a thousand ways (my colleague, to say the least, has not remembered them in more) are not their friends.

I made this point (and I have no concealments about it) because I look upon this amendment as the entering wedge to a general purpose to break down the system of reserves on which the maintenance of resumption depends.

Mr. MCMAHON. My colleague will permit me to ask him how the issue of $10,000,000 of the $346,000,000 authorized by law is going to break down the specie reserve which amounts to $236,000,000?

Mr. GARFIELD. That is what I am about to tell the gentleman. I say, at the outset, that our whole body of legislation relating to resumption makes, together a connected chain; and

Whichever link you strike,
Tenth or ten thousandth, breaks the chain alike.

Such legislation as this tends at least to weaken that chain. Now, my colleague, whose financial knowledge would not have been doubted if he had not made this speech, amazed me very much by saying that the subsidiary coinage and the subsidiary currency are no part of the general problem of resumption. Why, does he not know perfectly well that the subsidiary currency in the form of these scrip notes or in coin goes to make up the volume of our circulating medium just as much as greenbacks, just as much as gold? The great currency question embraces everything that circulates as money; and it will not do to say that the subsidiary coinage has nothing to do with the general proposition. It has very much to do with it. Subsidiary currency in any form circulates far more rapidly than dollar bills, and dollar bills more rapidly than five-dollar bills, and these more rapidly than tens. Just in proportion to the smallness of the denomination of the bill is its circulation rapid. Here was a proposition to hasten the issue of subsidiary coin. As the law first stood, the silver could only be issued on the presentation of the scrip, the silver being paid in exchange therefor. In order to facilitate the process, Congress provided that, as there was a rush to make the exchange, people might deposit greenbacks and receive silver coin in place of it, but that the greenbacks thus deposited should be held to redeem according to law the scrip as it might come in. This reserve, therefore, of which my colleague speaks, is a reserve laid away as a provision against the demand for the scrip, in place of which the silver coin has already been issued.

Mr. WARNER. Will my friend permit me to ask him a question?

Mr. GARFIELD. Certainly.

Mr. WARNER. Is it not perfectly well understood that the fractional currency, against which I understand it is claimed this $10,000,000 is held, is now out of existence, or at least that only a small part of it remains for redemption?

Mr. GARFIELD. I will answer my colleague. Estimates have been made on that subject. All agree that a certain portion of the scrip is probably destroyed, and will never be presented for redemption. What that proportion is nobody knows. The amount, however, of any circulating medium which is actually destroyed, is much smaller than people suppose. I will give a single instance. There is a bank in my district which was in actual operation nearly fifty years, under the State laws, and when the new banking system was adopted, it undertook to wind up its old business; that is, being solvent, to redeem all its old bills. They have gone on redeeming and redeeming, and the last time I talked with the cashier he told me that less than two per cent. of the whole issue, covering a period of forty years of State banking, was still out; and even then almost every week, fifteen, twenty, or thirty dollars of old bills came back; showing that the destruction of outstanding circulating paper money is far less than the people suppose.

Now, the highest estimate which has been made is that perhaps $10,000,000 of the fractional scrip is destroyed and will never come in. And here is outstanding at least $15,000,000 not yet brought in. I saw the papers yesterday of a single party who took $6,000 of this scrip to the Treasury. We have sometimes six, eight, or ten thousand dollars a day brought in. The time will doubtless come when it will be safe to reduce this reserve, leaving enough to cover what is outstanding and will not come in, and let the rest go into circulation. But to say now that the whole $10,000,000 shall go into circulation, leaving none to protect this issue, is to break down one of the stated reserves of the government to meet its obligations.

Mr. McMAHON. Will the gentleman from Ohio allow me to put a question to him?

Mr. GARFIELD. Certainly.

Mr. McMAHON. Under the specie-resumption law—and I do not wish to argue, I only want to state it—under the specie-resumption law the Secretary of the Treasury was ordered to redeem fractional currency in silver coin. Now, in July, 1876, we authorized him to pay out $10,000,000 of silver coin and to take in $10,000,000 of greenbacks. We authorized him to redeem this fractional currency outstanding in greenbacks, and he has never done it.

Mr. GARFIELD. How does my colleague know that?

Mr. McMAHON. I say it because the debt statement shows it; I have it here, and I read on page 4 of the Treasury report, currency assets, "United States notes, special fund for redemption of fractional currency, $10,000,000." Now it never was in contemplation of the gentlemen who passed that law in 1876 that when that $10,000,000 was taken in it should be kept. That was a little private scheme of contraction of Mr. Sherman himself. Our order to him was to pay out in redemption of fractional currency. Instead of that he is redeeming constantly in silver coin and keeping the $10,000,000 in.

Mr. GARFIELD. I will answer my colleague. I am not responsible for the Secretary's execution of his duty under that law. But I should say if I were the Secretary I would be bound by the law and by the reason of the case to hold a sufficient amount of that fund for the ample protection of all the outstanding scrip which would be likely to come in. Perhaps the Secretary has kept more than is needed; and if he has, it is perfectly proper for Congress to ascertain, after a fair examination, how much of that he can spare, and then let it out. I will agree to that at any time. But my colleague adopts no such method; he says simply let it all go, and he proposes to make this sweeping change of law and give up the whole reserve for that purpose, and therefore to that extent, or at least to some extent, breaks over the line of our reserves.

Now I have said all I desire to say on that subject except a single word in conclusion. My colleague pained me by a single expression in his speech. Nothing has ever occurred between him and me which entitles either of us to say discourteous and indecent things about the other; and when my colleague said that though I owed more allegiance to the soldier than perhaps to any other class, yet that I appeared to act as though I owed my chief allegiance to Wall street, he said what he had no more right to say, either as a matter of fact or a matter of fair inference, than I would have a right to say he owes his chief allegiance to the groggeries and whisky-shops of Dayton; and as I would not say that, I do not think he was entitled to say the other.

Mr. McMAHON. In answer to the gentleman I say this: I have followed with interest the public career of the gentleman, and if in all the discussions which have ever taken place in this House or this country on financial questions he can show one vote or one speech that was not based upon the idea of speedy resumption, no matter at what cost to the great mass of the people, even when his own party separated from him upon that question in the Forty-third Congress, when he was in a minority in his own party upon this question—if he can show one vote which he ever cast in favor of what was regarded then by the majority of his own party in the West as the interest of the people on this question, I will take my statement back. That is all that it covered.

Mr. GARFIELD. I will relieve my colleague upon that point. He could not certainly praise me any more according to my notions of legislative praise than to say what he has said. If I ever did cast a vote that was not in favor of the resumption of specie payments, that was not against all schemes to delay and prevent it, I cast a vote that my conscience and my judgment disapproved of. [Applause.] And I venture to say I have cast as many votes as any man on this floor against Wall street and the business of gold-gambling which has been destroyed by resumption; that gold-gambling in Wall street which locked up one hundred

millions of the business capital of this country for fifteen years, away from all profitable investment, and converted Wall street into a hell of gamblers with the business of this country up and down. And if every vote of mine in favor of honest money has not been a blow at gambling in Wall street, then it has not had the effect I intended.

Mr. BRIGHT. I desire to ask the gentleman from Ohio a question. Have not the operations of Wall street been simply transferred to the Treasury of the United States?

Mr. GARFIELD. In answer to the gentleman from Tennessee, I will say that I hope there has been enough of the gold and silver in this country that had hitherto been lodged in Wall street for gold-gambling purposes transferred to the Treasury of the United States to break down the bulls and bears of Wall street permanently, and to maintain the supremacy of honest money. [Applause.]

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2. THE NEW SILVER BILL.

The House having under consideration a bill to authorize the unlimited coinage of silver, and to give the profits thereof to the owners of bullion, May 17, 1879—

Mr. GARFIELD said:

Mr. Speaker, we have probably never legislated on any question the influence of which reaches further, both territorially and in time, and touches more interests, more vital interests, than are touched by this and similar bills. No man can doubt that within recent years, and notably within recent months, the leading thinkers of the civilized world have become alarmed at the attitude of the two precious metals in relation to each other; and many leading thinkers are becoming clearly of the opinion that by some wise, judicious arrangement both the precious metals must be kept in service for the currency of the world. And this opinion has been very rapidly gaining ground within the last six months, to such an extent that England, which for more than half a century has stoutly adhered to the single gold standard, is now seriously meditating how she may harnsss both these metals to the monetary car of the world. And yet, outside of this Capitol, I do not this day know of a single great and recognized advocate of bi-metallic money who regards it prudent or safe for any nation largely to increase the coinage standard of silver coin at the present time beyond the limits fixed by existing laws. France and the states of the Latin Union, that have long believed in bi-metallism, maintained it against all comers and have done all in their power to advocate it throughout the world, dare not coin a single silver coin and have not done so since 1874. The most strenuous advocates of bi-metallism in those countries say it would be ruinous to bi-metallism for France or the Latin Union to coin any more silver at present. The remaining stock of German silver now for sale, amounting to from forty to seventy-five millions of dollars, is a standing menace to the exchanges and silver coinage of Europe. One month ago the leading financial journal of London proposed that the Bank of England buy one-half of the German surplus and hold it five years on condition that the German Government shall hold the other half off the market. The time is ripe for some wise and prudent arrangement among the nations to save silver from a disastrous break-down.

Yet we, who during the past two years, have coined far more silver dollars than we ever before coined since the foundation of the government—ten times as many as we coined during half a century of our

national life—are to-day ignoring and defying the enlightened, universal opinion of bi-metallists, and saying that the United States, singlehanded and alone, can enter the field and settle the mighty issue alone. We are justifying the old proverb that "Fools rush in where angels fear to tread."

It is sheer madness, Mr. Speaker. I once saw a dog on a great stack of hay that had been floated out into the wild, overflowed stream of a river, with its stack-pen and foundation still holding together, but ready to be wrecked. For a little while the animal appeared to be perfectly happy. His hay-stack was there and the pen around it, and he seemed to think the world bright, and his happiness secure, while the sunshine fell softly on his head and his hay. But by and by, he began to discover that the house and the barn and their surroundings were not all there as they were when he went to sleep the night before; and he began to see that he could not command all the prospect and peacefully dominate the scene as he had done before. So with this House. We assume to manage this mighty question which has been launched on the wild current that sweeps over the whole world, and we bark from our legislative hay-stacks, as though we commanded the whole world. [Applause.] In the name of common sense and sanity, let us take some account of the flood; let us understand that a deluge means something, and try, if we can, to get our bearings before we undertake to settle the affairs of all mankind by a vote of this House.

To-day we are coining one-third of all the silver that is being coined in the round world. China is coining another third; and all other nations are using the remaing one-third for subsidiary coin. And if we want to take rank with China and part company with all of the civilized nations of the Western World, let us pass this bill, and then "bay the moon" as we float down the whirling channel to take our place among the silver monometallists of Asia.

What this country needs above all other things, is that this Congress shall pass the appropriation bills, adjourn, and go home [applause on the Republican side], and let the forces of business and good order and brotherhood, working in their natural and orderly way, bring us into light and stability and peace. And we want time to adjust this great international question. Now, while I am speaking, the Administration is opening negotiations with all the western nations, to see if there cannot be some international arrangement whereby this question of bi-metallism may be wisely settled. We tried it by international monetary conference. It was a preliminary reconnaissance, and——

[Here the hammer fell.]

IV.

THE MISSISSIPPI RIVER AN OBJECT OF NATIONAL CARE.

The House having under consideration a bill to provide for a commission to survey the Mississippi River, June 21, 1879—

Mr. GARFIELD said:

Mr. Speaker, I should oppose this bill, very decidedly, if it committed us at this time to any plan or theory of managing the Mississippi River; and I think the remarks of the gentleman from Indiana [Mr. Baker], warning us against committal in any such direction, are wise. But I have looked the bill over with what care I could, and it does not seem to me that by its passage we commit ourselves to anything further than the purpose to obtain accurate official information touching the present condition and needs of this great stream. I admit that we have already had examinations and explorations of the Mississippi, some of them scientific and very valuable; but everybody will concede that one important experiment has been made, in recent years, which, though against the opinion of the majority of engineers, has proven apparently a great success: I mean the jetty system at the mouth of that river. I say "apparently," because it is possible that in the long run it may not prove a success; but at the present moment it appears to be a great and striking success in the management of the mouths of that river. If it prove to be permanently so, all our calculations and, indeed, all our theories concerning the improvement and management of other portions of that river need to be reconsidered in view of the new light that the jetty system will throw upon the question. Hence a proposition to turn on the light, to get information, and to get it from the best scientific advisers that we can call to our aid, is a step in the right direction. I have always favored measures which will result in giving us information upon all questions about which we are called upon to legislate. What shall be done with this knowledge when it comes, will be for our successors to say. We do not commit ourselves or them to any scheme at this time. But for myself, I believe that one of the grandest of our material national interests—one that is national in the largest material sense of that word—is the Mississippi River and its navigable tributaries. It is the most gigantic single natural feature of our continent, far transcending the glory of the ancient Nile or of any other river on the earth. The statesmanship of America must grapple the problem of this mighty stream. It is too vast for any State to handle; too much for any authority less than that of the nation itself to manage. And I believe the time will come when the liberal-minded statesmanship of this country will devise a wise and comprehensive system, that will harness the powers of this great river to the material interests of America, so that not only all the people who live on its banks and the banks of its confluents, but all the citizens of the republic, whether dwellers in the central valley or on the slope of either ocean, will recognize the importance of preserving and perfecting this great natural and material bond of national union between the North and the South—a bond to be so strengthened by commerce and intercourse that it can never be severed. [Applause.]

One of our early Presidents went so far as even to exceed his early preconceived opinions of the constitutional power of the Executive, in

order to buy from France a mighty empire to be added to the Union; and he did it for this reason chiefly, that the young Republic could not permanently endure as a nation without owning and controlling the mouths of the Mississippi. Nearly the whole continent west of that river was bought, to make the Union perpetual by bringing every foot of the shore of the Mississippi under our flag. If I did not think it almost unworthy of so great a theme, I would say that if there had been no patriotic impulse higher than any consideration of material welfare which moved twenty millions of Americans to resist the attempt to break the Union in pieces, and impelled them to hold it together by all the cost of blood and treasure that our late war required, if there had been no higher national sentiment inspiring them, the immense material stake which the people of the great North and West and center of this country had in the free use of that river from its sources to its mouth, that their commerce might go southward to the sea under the one flag, unvexed by conflicting nationalities, this material stake alone would have made all the people of the upper valley of the Mississippi resist to the last the dismemberment of the Union.

This great river, which our fathers made such sacrifices to acquire, and which the present generation made so much costlier sacrifices to redeem from disunion and to hold within the grasp of the nation, we have held, not in obedience to mere sentiment alone, not with a view of keeping it as a vast and worthless waste of water, but to utilize it by making it the servant of all the people of this country. How shall we utilize it, unless at some time, and in some wise way, we bridle it by the skill of man and make it subservient to the interests of commerce?

Now, Mr. Speaker and gentlemen of the House, there is another reason why I am in favor of this measure. I rejoice in any occasion which enables Representatives from the North and from the South to unite in an unpartisan effort to promote a great national interest. [Applause.] Such an occasion is good for us both. And when we can do it without the sacrifice of our convictions, and can benefit millions of our fellow-citizens, and thereby strengthen the bonds of the Union, we ought to do it with rejoicing; for, in so doing, we shall inspire our people with larger and more generous views, and help to confirm for them and for our posterity to our latest generations, the indissoluble Union and the permanent grandeur of this Republic. I shall vote for this bill. [Applause on both sides of the House.]

V.

THE REVIVED DOCTRINE OF STATE SOVEREIGNTY.

The House being in Committee of the Whole on the marshals' appropriation bill, June 27, 1879—

Mr. GARFIELD said:

Mr. Chairman, "to this favor" it has come at last. The great fleet that set out on the 18th of March, with all its freightage and armament, is so shattered that now all the valuables it carried are embarked in this little craft, to meet whatever fate the sea and the storm may offer. This little bill contains the residuum of almost everything that has been the subject of controversy at the present session. I will not discuss it in detail, but will speak only of its central feature, and especially of the opinions which the discussion of that feature has brought to the surface during the present session. The majority in this Congress have adopted what I consider very extreme and dangerous opinions on certain important constitutional questions. They have not only drifted back to their old attitude on the subject of State sovereignty, but they have pushed that doctrine much further than most of their predecessors ever went before, except during the period immediately preceding the late war.

So extreme are some of these utterances, that nothing short of actual quotations from the Record will do their authors justice. I therefore shall read several extracts from debates at the present session of Congress, and group them in the order of the topics discussed.

Senator Wallace (Congressional Record, June 3, pages 3 and 5) says:

> The Federal Government has no voters; it can make none, it can constitutionally control none. * * * When it asserts the power to create and hold "*national elections*" or to regulate the conduct of the voter *on election day*, or to maintain *equal suffrage*, it tramples under foot the very basis of the Federal system and seeks to build a consolidated government from a democratic republic. This is the plain purpose of the men now in control of the Federal Government, and to this end the teachings of leading Republicans now are shaped.
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> There are no national voters. Voters who vote for national Representatives are qualified by State constitutions and State laws, and national citizenship is not required of a voter of the State by any provision of the Federal Constitution nor in practice.
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> If there be such a thing, then, as a "national election," it wants the first element of an election—a national voter. The Federal Government, or (if it suits our friends on the other side better) the nation, has no voters. It cannot create them, it cannot qualify them.

Representative Clark, of Missouri (Record, April 26, page 60), says:

> The United States has no voters.

Senator Maxey, Texas (Record, April 21, page 72), says:

> It follows as surely as "grass grows and water runs" that, under our Constitution, the entire control of elections must be under the State whose voters assemble; whose right to vote is not drawn from the Constitution of the United States, but existed and was freely exercised long before its adoption.

Senator Williams, Kentucky (Record, April 25, page 8), says:

The legislatures of the States and the people of the several districts are the constituency of Senators and Representatives in Congress. They receive their commissions from the governor, and when they resign (which is very seldom) they send their resignations to the governor and not to the President. They are State officers and not Federal officers.

Senator Whyte (Record, May 21, page 14) says:

There are no elections of United States officers and no voters of the United States. The voters are voters of the States, they are the people of the States, and their members of the House of Representatives are chosen by the electors of the States to represent the people of the States, whose agents they are.

Mr. McLane. 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.—(Record, April 4, page 14.)

Mr. McLane (Record, April 4, page 15) says:

I believe that the provision of law which we are about to repeal is unconstitutional; that is to say, that it is unconstitutional for the United States to "keep the peace" anywhere in the States, either at the polls or elsewhere; and if it were constitutional, I believe in common with gentlemen on this side of the House that it would be highly inexpedient to exercise that power.

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When that law used the phrase "to keep the peace" it could only mean the peace of the States.

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It is not a possible thing to have a breach of the United States peace at the polls.

Senator Whyte (Record, May 21, page 18) says:

Sovereignty is lodged with the States, where it had its home long before the Constitution was created. The Constitution is the creature of that sovereignty. The Federal Government has no inherent sovereignty. All its sovereign powers are drawn from the States.

The States were in existence long before the Union, and the latter took its birth from their power.

* * * * * * *

The State governments are supreme by inherent power originally conceded to them by the people as to the control of local legislation and administration. The Federal Government has no part or lot in this vast mass of inherent sovereign power, and its interference therewith is utterly unwarrantable.

Senator Wallace (Record, June 3, pp. 3 and 4) says:

Thus we have every branch of the Federal Government, House, Senate, the executive and judiciary departments, standing upon the State governments, and all resting finally upon the people of the States, qualified as voters by State constitutions and State laws.

Senator Whyte (Record, May 21, p. 15) says:

No, Mr. President; it never was declared that we were a nation.

* * * * * * *

In the formation and adoption of the Constitution the States were the factors.

These are the declarations of seven distinguished members of the present Congress. The doctrines set forth in the above quotations may be fairly regarded as the doctrines of the Democracy as represented in this Capitol.

Let me summarize them: First, there are no national elections; second, the United States has no voters; third, the States have the exclusive right to control all elections of members of Congress; fourth, the Senators and Representatives in Congress are State officers, or, as they have been called during the present session, "embassadors" or "agents" of the State; fifth, the United States has no authority to keep the peace anywhere within a State, and, in fact, has no peace to keep; sixth, the United States is not a nation endowed with sovereign power, but is a

confederacy of States; seventh, the States are sovereignties possessing inherent supreme powers; they are older than the Union, and as independent sovereignties the State governments created the Union and determined and limited the powers of the General Government.

These declarations embody the sum total of the constitutional doctrines which the Democracy has avowed during this extra session of Congress. They form a body of doctrines which I do not hesitate to say are more extreme than was ever before held on this subject, except perhaps at the very crisis of secession and rebellion.

And they have not been put forth as abstract theories of government. True to the logic of their convictions, the majority have sought to put them in practice by affirmative acts of legislation.

Let me enumerate these attempts. First, they have denounced as unconstitutional all attempts of the United States to supervise, regulate, or protect national elections, and have tried to repeal all laws on the national statute-book enacted for that purpose. Second, following the advice given by Calhoun in his political testament to his party, they have tried to repeal all those portions of the venerated judiciary act of 1789, the act of 1833 against nullification, the act of 1861, and the acts amendatory thereof, which provide for carrying to the Supreme Court of the United States all controversies that relate to the duties and authority of any officer acting under the Constitution and laws of the United States.

Third. They have attempted to prevent the President from enforcing the laws of the Union, by refusing necessary supplies and by forbidding the use of the Army to suppress violent resistance to the laws, by which, if they had succeeded, they would have left the citizens and the authorities of the States free to obey or disobey the laws of the Union as they might choose.

This, I believe, Mr. Chairman, is a fair summary both of the principles and the attempted practice to which the majority of this House has treated the country during the extra session.

Before quitting this topic, it is worth while to notice the fact that the attempt made in one of the bills now pending in this House, to curtail the jurisdiction of the national courts, is in the direct line of the teachings of John C. Calhoun. In his "Discourse on the Constitution and Government of the United States," published by authority of the Legislature of South Carolina in 1851, he sets forth at great length the doctrine that ours is not a national government, but a confederacy of sovereign States, and then proceeds to point out what he considers the dangerous departures which the government has made from his theory of the Constitution.

The first and most dangerous of these departures he declares to be the adoption of the twenty-fifth section of the judiciary act of 1789, by which appeals were authorized from the judgments of the supreme courts of the States to the Supreme Court of the United States. He declares that section of the act unconstitutional, because it makes the supreme court of a "sovereign" State subordinate to the judicial power of the United States; and he recommends his followers never to rest until they have repealed, not only that section, but also what he calls the still more dangerous law of 1833, which forbids the courts of the States to sit in judgment on the acts of an officer of the United States done in pursuance of national law. The present Congress has won the unenviable distinction of making the first attempt, since the death of Calhoun, to revive and put in practice his disorganizing and destructive theory of government.

Firmly believing that these doctrines and attempted practice of the present Congress are erroneous and pernicious, I will state briefly the counter-propositions:

I affirm: First, that the Constitution of the United States was not created by the government, of the States, but was ordained and established by the only sovereign in this country—the common superior of both the States and the nation—the people themselves; second, that the United States is a nation, having a government whose powers, as defined and limited by the Constitution, operate upon all the States in their corporate capacity and upon all the people; third, that by its legislative, executive, and judicial authority, the nation is armed with adequate power to enforce all the provisions of the Constitution against all opposition of individuals or of States, at all times and all places within the Union.

These are broad propositions; and I take the few minutes remaining to defend them. The constitutional history of this country, or rather the history of sovereignty and government in this country, is comprised in four sharply defined epochs—

First. Prior to the 4th day of July, 1776, sovereignty, so far as it can be affirmed of this country, was lodged in the Crown of Great Britain. Every member of every colony (the colonists were not citizens but subjects) drew his legal rights from the Crown of Great Britain. "Every acre of land in this country was then held mediately or immediately by grants from that Crown," and "all the civil authority then existing or exercised here, flowed from the head of the British Empire."

Second. On the 4th day of July, 1776, the people of these colonies, asserting their natural inherent right as sovereigns, withdrew the sovereignty from the Crown of Great Britain and reserved it to themselves. In so far as they delegated this national authority at all, they delegated it to the Continental Congress assembled at Philadelphia. That Congress, by general consent, became the supreme government of this country—executive, judicial, and legislative in one. During the whole of its existence it wielded the supreme power of the new nation.

Third. On the 1st day of March, 1781, the same sovereign power, the people, withdrew the authority from the Continental Congress and lodged it, so far as they lodged it at all, with the Confederation, which, though a league of States, was declared to be a perpetual union.

Fourth. When at last our fathers found the confederation too weak and inefficient for the purposes of a great nation, they abolished it and lodged the national authority, enlarged and strengthened by new powers, in the Constitution of the United States, where, in spite of all assaults, it still remains. All these great acts were done by the only sovereign in this Republic, the people themselves.

That no one may charge that I pervert history to sustain my own theories, I call attention to the fact that not one of the colonies declared itself free and independent. Neither Virginia nor Massachusetts threw off its allegiance to the British Crown as a colony. The great declaration was made not even by all the colonies as colonies, but it was made in the name and by authority of "all the good people of the colonies" as one people.

Let me fortify this position by a great name that will shine forever in the constellation of our Southern sky—the name of Charles Coatsworth Pinckney, of South Carolina. He was a leading member of the constitutional convention of 1787, and also a member of the convention of South Carolina which ratified the Constitution. In that latter convention the doctrine of State sovereignty found a few champions; and their

attempt to prevent the adoption of the Constitution, because it established a supreme national government, was rebuked by him in these memorable words. I quote from his speech as recorded in Elliott's Debates:

This admirable manifesto, which for importance of matter and elegance of composition stands unrivaled, sufficiently confutes the honorable gentleman's doctrine of the individual sovereignty and independence of the several States. In that declaration the several States are not even enumerated, but after reciting, in nervous language and with convincing arguments, our right to independence and the tyranny which compelled us to assert it, the declaration is made in the following words: "We, therefore, the representatives of the United States of America, in general congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by the authority of the good people of these colonies, solemnly publish and declare that these united colonies are, and of right ought to be, free and independent States."

The separate independence and individual sovereignty of the several States were never thought of by the enlightened band of patriots who framed this declaration. The several States are not even mentioned by name in any part of it, as if it was intended to impress this maxim on America, that our freedom and independence arose from our union, and that without it we could neither be free nor independent. Let us, then, consider all attempts to weaken this union by maintaining that each is separately and individually independent as a species of political heresy, which can never benefit us, but may bring on us the most serious distresses.

For a further and equally powerful vindication of the same view I refer to the Commentaries of Justice Story, vol. 1, p. 197.

In this same connection, and as a pertinent and effective response to the Democratic doctrines under review, I quote from the first annual message of Abraham Lincoln, than whom no man of our generation studied the origin of the Union more profoundly. He said:

Our States have neither more nor less power than that reserved to them in the Union by the Constitution, no one of them ever having been a State *out* of the Union. The original ones passed into the Union even *before* they cast off their British colonial dependence, and the new ones each came into the Union directly from a condition of dependence, excepting Texas. And even Texas, in its temporary independence, was never designated a State. The new ones only took the designation of States on coming into the Union, while that name was first adopted for the old ones by the Declaration of Independence. Therein the "united colonies" were declared to be "free and independent States;" but, even then, the object plainly was not to declare their independence of *one another*, or of the *Union*, but directly the contrary, as their mutual pledge and their mutual action before, at the time, and afterward abundantly show.

* * * * * * * *

The States have their status in the Union, and they have no other legal status. If they break from this, they can only do so against law and by revolution. The Union, and not themselves separately, procured their independence and their liberty. By conquest or purchase, the Union gave each of them whatever of independence and liberty it has. The Union is older than any of the States, and in fact it created them as States. Originally some dependent colonies made the Union, and in turn the Union threw off their old dependence for them and made them States, such as they are. Not one of them ever had a State constitution independent of the Union. Of course it is not forgotten that all the new States framed their constitutions before they entered the Union; nevertheless, dependent upon and preparatory to coming into the Union.

In further enforcement of the doctrine that the State governments were not the sovereigns who created this government, I refer to the great decision of the Supreme Court of the United States in the case of Chisholm *vs.* The State of Georgia, reported in 2 Dallas, a decision replete with the most enlightened national spirit, in which the court stamps with its indignant condemnation the notion that the State of Georgia was "sovereign" in any sense that made it independent of or superior to the nation.

Mr. Justice Wilson said:

As a judge of this court I know, and can decide upon the knowledge, that the citizens of Georgia, when they acted upon the large scale of the Union as a part of the "people of the United States," did not surrender the supreme or sovereign power to

that State: but, as to the purposes of the Union, retained it to themselves. As to the purposes of the Union, therefore, Georgia is not a sovereign State.

* * * * * * *

Whoever considers in a combined and comprehensive view the general texture of the Constitution will be satisfied that the people of the United States intended to form themselves into a nation for national purposes. They instituted for such purposes a national government, complete in all its parts, with powers legislative, executive, and judiciary, and in all those powers extending over the whole nation. Is it congruous that, with regard to such purposes, any man or body of men, any person, natural or artificial, should be permitted to claim successfully an entire exemption from the jurisdiction of the national government?

Mr. Chairman, the dogma of State sovereignty which has reawakened to such vigorous life in this chamber, has borne such bitter fruits and entailed such suffering upon our people that it deserves more particular notice. It should be noticed that the word "sovereignty" cannot be fitly applied to any government in this country. It is not found in our Constitution. It is a feudal word, born of the despotism of the middle ages, and was unknown even in imperial Rome. A "sovereign" is a person, a prince who has subjects that owe him allegiance. There is no one paramount sovereign in the United States. There is no person here who holds any title or authority whatever, except the official authority given him by law. Americans are not subjects, but citizens. Our only sovereign is the whole people. To talk about the "inherent sovereignty" of a corporation—an artificial person—is to talk nonsense; and we ought to reform our habit of speech on that subject.

But what do gentlemen mean when they tell us that a State is sovereign? What does sovereignty mean, in its accepted use, but a political corporation having no superior? Is a State of this Union such a corporation? Let us test it by a few examples drawn from the Constitution. No State of this Union can make war or conclude a peace. Without the consent of Congress it cannot raise or support an army or a navy. It cannot make a treaty with a foreign power, nor enter into any agreement or compact with another State. It cannot levy imposts or duties on imports or exports. It cannot coin money. It cannot regulate commerce.

It cannot authorize a single ship to go into commission anywhere on the high seas; if it should, that ship would be seized as a pirate or confiscated by the laws of the United States. A State cannot emit bills of credit. It can enact no law which makes anything but gold and silver a legal tender. It has no flag except the flag of the Union. And there are many other subjects on which the States are forbidden by the Constitution to legislate.

How much inherent sovereignty is left in a corporation which is thus shorn of all these great attributes of sovereignty?

But this is not all. The Supreme Court of the United States may declare null and void any law or any clause of the constitution of a State which happens to be in conflict with the Constitution and laws of the United States. Again, the States appear as plaintiffs and defendants before the Supreme Court of the United States. They may sue each other; and, until the eleventh amendment was adopted, a citizen might sue a State. These "sovereigns" may all be summoned before their common superior to be judged. And yet they are endowed with supreme inherent sovereignty?

Again, the government of a State may be absolutely abolished by Congress, in case it is not republican in form. And finally, to cap the climax of this absurd pretension, every right possessed by one of these "sovereign" States, every inherent sovereign right except the single right to equal representation in the Senate, may be taken away, without its consent, by the vote of two-thirds of Congress and three-fourths

of the States. But, in spite of all these disabilities, we hear them paraded as independent, sovereign States, the creators of the Union and the dictators of its powers. How inherently "sovereign" must be that State west of the Mississippi which the nation bought and paid for with the public money, and permitted to come into the Union a half century after the Constitution was adopted! And yet we are told that the States are inherently sovereign and created the national government.

Read a long line of luminous decisions of the Supreme Court. Take the life of Chief-Justice Marshall, that great judge, who found the Constitution paper and made it a power, who found it a skeleton and clothed it with flesh and blood. By his wisdom and genius he made it the potent and beneficent instrument for the government of a great nation. Everywhere he repelled the insidious and dangerous heresy of the sovereignty of the States in the sense in which it has been used in these debates.

Half a century ago, this heresy threatened the stability of the nation. The eloquence of Webster and his compeers and the patriotism and high courage of Andrew Jackson resisted and for a time destroyed its power; but it continued to live as the evil genius, the incarnate devil, of America; and in 1861 it was the fatal phantom that lured eleven millions of our people into rebellion against their government. Hundreds of thousands of those who took up arms against the Union, stubbornly resisted all inducements to that fatal step until they were summoned by the authority of their States.

The dogma of State sovereignty in alliance with chattel slavery finally made its appeal to that court of last resort where the laws are silent and where kings and nations appear in arms for judgment. In that awful court of war two questions were tried. Shall slavery live? And is a State so sovereign that it may nullify the laws and destroy the Union? Those two questions were tried on the thousand battle-fields of the war; and if war ever "legislates," as a leading Democrat of Ohio once wisely affirmed, then our war legislated finally upon those subjects, and determined, beyond all controversy, that slavery should never again live in this Republic, and that there is not sovereignty enough in any State to authorize its people either to destroy the Union or nullify its laws.

I am unwilling to believe that any considerable number of Americans will ever again push that doctrine to the same extreme; and yet, in these summer months of 1879, in the Congress of the reunited nation, we find the majority drifting fast and far in the wrong direction, by reasserting much of that doctrine which the war ought to have settled forever. And what is more lamentable, such declarations as those which I read at the outset are finding their echoes in many portions of the country which was lately the theater of war. No one can read the proceedings at certain recent celebrations, without observing the growing determination to assert that the men who fought against the Union were not engaged in treasonable conspiracy against the nation, but that they did right to fight for their States, and that, in the long run, the lost cause will be victorious. These indications are filling the people with anxiety and indignation; and they are beginning to inquire whether the war has really settled these great questions.

I remind gentlemen on the other side that we have not ourselves revived these issues. We had hoped they were settled beyond recall, and that peace and friendship might be fully restored to our people.

But the truth requires me to say that there is one indispensable ground of agreement on which alone we can stand together, and it is this: The war for the Union was right, everlastingly right [applause]; and the war

against the Union was wrong, forever wrong. However honest and sincere individuals may have been, the secession was none the less rebellion and treason. We defend the States in the exercise of their many and important rights, and we defend with equal zeal the rights of the United States. The rights and authority of both were received from the people—the only source of inherent power.

We insist not only that this is a nation, but that the power of the government, within its own prescribed sphere, operates directly upon the States and upon all the people. We insist that our laws shall be construed by our own courts and enforced by our Executive. Any theory which is inconsistent with this doctrine we will resist to the end.

Applying these reflections to the subject of national elections embraced in this bill, I remind gentlemen that this is a national House of Representatives. The people of my Congressional district have a right to know that a man elected in New York City is elected honestly and lawfully; for he joins in making laws for forty-five millions of people. Every citizen of the United States has an interest and a right in every election within the republic where national representatives are chosen. We insist that these laws relating to our national elections shall be enforced, not nullified; shall remain on the statute-books, and not be repealed; and that the just and legal supervision of these elections ought never again to be surrendered by the Government of the United States. By our consent it never shall be surrendered. / [Applause.]

Now, Mr. Chairman, this bill is about to be launched upon its stormy passage. It goes not into unknown waters; for its fellows have been wrecked in the same sea. Its short, disastrous, and, I may add, ignoble voyage is likely to be straight to the bottom. [Applause.]

In reply to Mr. Hurd, same day, Mr. GARFIELD said:

Mr. CHAIRMAN. Two points were made by my colleague from Ohio [Mr. Hurd] to which I desire to call attention. To strengthen his position, that the United States has no voters, he has quoted, as other gentlemen have quoted, the case of Minor *vs.* Happersett, 21 Wallace, page 170.

The question before the court in that case was, whether a provision in the State constitution which confines the right of voting to *male* citizens of the United States is a violation of the fourteenth amendment of the Constitution. The court decided that it was not; and, in delivering his opinion the Chief Justice took occasion to say that "the United States has no voters in the States, of its own creation." Now, all the gentlemen on the other side who have quoted this decision, have left out the words "*of its own creation*," which makes a very essential difference. The Constitution of the United States declares who shall vote for members of Congress, and it adopts the great body of voters whose qualifications may be or have been prescribed by the laws of the States. The power of *adoption* is no less a great governmental power than the power of *creation*.

But the second point to which I wish to refer, and which has been made by several gentlemen, and very markedly by my colleague [Mr. Hurd], is this: He says that the contemporaneous construction of that clause of the Constitution which provides that Congress may at any time make or alter the regulations in regard to the time, place, and manner of holding elections, has determined that Congress can never exercise that right so long as the States make provisions for it. So long as

the States do not neglect or refuse to act, or are not prevented by rebellion or war from acting, it was their exclusive right to control the subject. That is what my colleague says. That is what is said in the Record of June 3 by a distinguished member of the Senate.

Now, mark how plain a tale shall put that down.

On the 21st day of August, 1789, in the first House of Representatives that ever met, Mr. Burke, a member from South Carolina, offered the following as one of the amendments to the Constitution. I will read it:

Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections of Senators or Representatives, except when any State shall refuse or neglect, or be unable by invasion or rebellion, to make such elections.

That was the very proposition which my colleague says is the meaning of the Constitution as it now stands. This amendment was offered in a House of Representatives nearly one-half of whose membership was made up of men who were in the convention that framed the Constitution. That amendment was debated; and I hold in my hand the brief record of the debate. Fisher Ames, of Massachusetts, approving of the clause as it now stands, said:

He thought this one of the most justifiable of all the powers of Congress. It was essential to a body representing the whole community that they should have power to regulate their own elections, in order to secure a representation from every part, and prevent any improper regulations, calculated to answer party purposes only. It is a solecism in politics to let others judge for them, and is a departure from the principles upon which the Constitution was founded. * * * He thought no legislature was without the power to determine the mode of its own appointment; * * * that such an amendment as was now proposed would alter the Constitution; it would vest the supreme authority in places where it was never contemplated.

Mr. Madison was willing to make every amendment that was required by the States which did not tend to destroy the principles and efficacy of the Constitution; he conceived that the proposed amendment would have that tendency; he was therefore opposed to it.

Mr. Sherman observed that the convention was very unanimous in passing this clause; that it was an important provision, and if it was resigned it would tend to subvert the government.

Mr. Goodhue hoped the amendment never would obtain. * * * Now, rather than this amendment should take effect, he would vote against all that had been agreed to. His greatest apprehensions were that the State governments would oppose and thwart the general one to such a degree as finally to overturn it. Now, to guard against this evil, he wished the Federal government to possess every power necessary to its existence.

After a full debate, in which the doctrine of State rights was completely overwhelmed so far as this subject was concerned, the vote was taken, and 23 voted in favor of the amendment and 28 voted against it. It did not get even a majority, much less a two-thirds vote, in the House; and it never was called up in the Senate at all.

Now, who were the men that voted against it? Let me read some of their honored names; Fisher Ames, of Massachusetts; Charles Carroll, of Carrollton; Clymer, of Pennsylvania, whose distinguished descendant is a member of this House; Fitzsimmons, of Pennsylvania; Muhlenberg, of Pennsylvania, who was Speaker of the first House of Representatives; Lee and Madison, of Virginia; Trumbull and Sherman, of Connecticut—all those great names are recorded against the very construction of the Constitution which my colleague defends as the correct interpretation of the existing clause on that subject. That is all I desire to say.

VI.

ANCIENT AND MODERN PANICS.

After the journal was read, July 1, 1879, several gentlemen made personal explanations as follows:

Mr. ELLIS. I rise to a question of personal privilege.

The SPEAKER. How much time does the gentleman desire?

Mr. ELLIS. Only time enough to have read by the Clerk the article which I send to the desk, and to say that it is false.

Mr. GARFIELD. I think we had better have this thing out, now that it has been started. I hope the article will be read.

The Clerk read as follows:

THE CONGRESSIONAL MUDDLE—GOSSIP AT THE CAPITOL ABOUT AN ALLEGED BARGAIN.

It is rumored at the Capitol to-day, and generally believed, that if Congress adjourns at four o'clock on Monday without providing for the pay of United States marshals, the President will forthwith issue his proclamation for an extra session of Congress to assemble on Tuesday next. The President will veto the bill which was the product of the last Democratic caucus. It is believed, and is common talk at the Capitol, that in view of some arrangement made with about fourteen Southern Democrats, the end will be that a bill for the pay of the marshals will be passed without any riders. Western Democrats say boldly that General Garfield made a trade with certain Southern Congressmen whereby in consideration of the Republicans allowing the bill to provide for the Mississippi River commission to be passed, those Congressmen pledged their votes to help the passage of all of the appropriation bills before Congress finally adjourned. "Why," said a Western Democrat to-day, "the trade is as plain as the nose on a man's face. President Hayes knows that through sharp practices of General Garfield and other Republican leaders the Democrats are divided, and that if he keeps on pressing Congress he can eventually dictate any terms he wants. He proposes, therefore, to take advantage of it, and hence will not permit Congress to go away until he gets all of the necessary supplies to carry on the government without restrictions of any kind." To-day there is a good deal of talk among the Western men, who say that while they are certain that a few Southern men have made a trade, and mean to sell their Northern allies out, that it may be the goods cannot be delivered. They declare with all the vehemence of language that they will filibuster against the passage of any other bill for the support of the marshals than the one which will be sent to the President and which will be vetoed. McMahon, of Ohio, has even gone so far as to serve notice on certain Southern leaders that hereafter he will not vote for any bill looking to improvements in the South, as a distinctive proposition. The votes which it is claimed the Administration has secured through General Garfield's diplomacy are all of the Louisiana delegation, three from South Carolina, three from Georgia, and two from Alabama.

Mr. ELLIS. Mr. Speaker, life is too short generally to stop to kick at every cur that barks about our heels. I usually take no notice of falsehoods published about me in the papers; and I would not do so on this occasion, but counseling with some friends, gentlemen of more age and experience than myself, they think that some notice should be taken of this article. I take no further notice of it than upon my own behalf, and on behalf of my colleagues who are also assailed in the article, to pronounce it unqualifiedly, deliberately, willfully false in every particular.

Mr. EVINS. Mr. Speaker, it was not the intention of any member of the South Carolina delegation to take any notice of this article; but, inasmuch as it has been read, all we have to say is that it is unqualifiedly false; there is not a word of truth in it.

Mr. ACKLEN. I think it is in order for the gentleman from Ohio [Mr. Garfield] to rise to a personal explanation. [Laughter.]

Mr. GARFIELD. Mr. Speaker, I do not rise to a personal explanation, but to respond to the inquiry of the gentleman from Louisiana [Mr. Acklen]. I happened to be re-reading the other day that interesting old history of Xenophon in which he describes the retreat of the ten thousand Greeks. A little incident recorded in that work will illustrate the subject which gentlemen are discussing. One night there suddenly sprang up in the Grecian camp without apparent cause what is known as an army panic.

The SPEAKER. Does the gentleman rise to a personal explanation? [Laughter.]

Mr. GARFIELD. Oh, no, sir; I am only answering a question. All at once the veteran Greeks appeared to be seized with consternation, and began to flee in all directions. Clearchus, an unscrupulous but adroit general, appreciating the danger of the situation, with ready invention ordered his trumpeter to announce throughout the camp in a loud voice that Clearchus offered a thousand talents of silver as a reward to any one who should discover who it was that let the ass loose among the armor. [Laughter.] He invented this clever device to stay the panic. The lie was successful; and the fleeing Greeks returned with laughter to their tents.

Now, I take it that some shrewd but unscrupulous Democratic leader of the House, fearing that by a stroke of good sense some of his party, and especially some from the South, were going to be patriotic enough to put through the necessary appropriations for the support of the government—fearing, in short, a panic in the party camp—got up this fiction of a trade, in order to bring back all his soldiers to their tents. Who represents Clearchus, and who the ass in this new retreat, gentlemen must judge for themselves. But the whole story is an absurd fiction, which ought to disturb no one.