The PRESIDING OFFICER. It is not the practice of the Chair, and it is not required by the rules of the Senate, to call the attention of the Senate to any business upon the Calendar, except special business, when the hour arrives for their consideration.

Mr. DOUGLAS. I understand it is the universal practice of the President of the Senate, in my opinion, to suppress on the floor of the Senate, and make no formal announcement of any business upon the Calendar, and that the Senate proceeds to any business that may be before them. Therefore, I cannot get at my object in another way, and the debate will not be, in my opinion, suppressed on the resolution of the other Senator, and I shall vote "nay."
men are not members of the Senate; and, as a consequence, they cannot be divided against the roll; and I shall vote for this resolution, should the amendment of the honorable Senator from Delaware be ordered. But the resolution offered by the Senator from Mississippi, is to have no weight, and depends upon his own action entirely. After being elected, I agree with the Senator from Delaware, the Senator for the 4th District, is not the term for which he is elected—none at all, in my judgment. The Senator has power over him, and may continue a member or not at his own will and pleasure, so far as he may be operated upon by the body itself.

Now, sir, I stated the other day, what I state now, in what I think is a right and proper way. It depends upon no form of words. It is a thing of itself to be inferred by the Senate, as a Senator may be created by the Senate, or at its own pleasure. The idea with regard to these cases was that the Senate had given certain reasons for their action. With their reasons, I have nothing to do. If satisfactory to them, they may declare, substantially, as I have set forth in the resolution, that they were no longer members of this Senate; some reason is given for it, and having made that declaration, they withdrew from the Senate, carried out their expressed purpose; some reason no longer members of the Senate of the United States. Without the consent of these states, without having, as was necessary, to declare, and carried their thought into action, the result is that the states they hold here are vacant, so far as the Senate is concerned, nobody else being elected in their places.

I prefer that phraseology for the reason suggested by the honorable Senator from Virginia: that that particular state was not having its seat being vacant, and to be filled by those states whenever they choose to fill them. That suits my idea of the exact state of this case; whether it goes as far as it does to the states themselves. I cannot coincide with my honorable friend from Delaware, when he says that this is to be done in any degree, or offense to the Senate, themselves. The Senate is so constituted. It is holding these seats here at its disposal, at any time when they choose to fill them. I do not think the Senate has no power over the Senate, nor to order them to fill them, or to order any more gentlemen or others, less than the Senate, just as they please upon that subject. I hold, that the Senate could declare the fact, and in proper phraseology, and I hope it will pass instead of the one suggested by the honorable Senator from Delaware, which goes no length at all, and leaves it entirely to the roll, which is not sufficient for the purpose.

Mr. BAYARD. I am unable to appreciate the force of the objections that are made against the resolution. I, of course, admit that the roll is to have no power over the Senate, and I do not understand the Senate; but I will withdraw from the Senate; would that render his seat vacant? Is that a re-ignation? I am not required to do anything, or to have any particular regard to the day when the Senate has no power to act in this matter. I have no power to act in this matter.

Mr. BAYARD. I move to amend the resolution, by striking out the name of Senator G. B. Strong, and inserting the name of the Senator from Maine, and that of the kind recited in the resolution; and I suppose a resolution of the Senate ought not to read, that the Senate of the United States, since the day his colleague made his declaration, or perhaps a day or two previous to that.

Mr. FESSENDEN. He stated in advance what he would do, and I think, and retired from the Senate.

Mr. BAYARD. He never made any statement that he would do anything from the Senate, but he did not declare that he had resigned his seat in the Senate, is very certain. Now, a declaration that a member might make prospectively of what he intended to do, certainly could not amount to

Senator in his seat amounts to a vacancy, or you have no right to declare that those seats are vacant. If a Senator chooses to admit himself, until his term expires, or, at least, until he shall say, "I shall no longer attend the sessions of the Senate during my term; I do not intend to resign; but I shall withdraw to take a seat in my Arms for him; but the withdrawal of the Senator by the distinct declaration that he does not resign, or words, that he will not perform the duties, but do not resign his seat, cannot be held by the Senate, or the United States of the Senate of the United States. He may change his mind, and come back to the Senate, and I think it is the right of the Senate to declare a seat vacant, where there has been no resignation, unless some subsequent fact occurred, and that is denied in the present case. There is no clause, so far as the clause," and that is not a case of withdrawal, accompanied with a declaration, and that declaration is inconsistent with resignation.

Further, as I said, if my substitute is not adopted, this question arises: the resolution before the Senate is a special one. In Maine, it is not in itself correct, as Mr. Buow's never made any declaration to the Senate whatever.

The VICE PRESIDENT. The question is on the adoption of the amendment of the Senator from Delaware, on which the years and nays have been ordered.

The Senator from Maine is directed to omit his name from the roll of members.

Mr. BAYARD. I move to amend the resolution, by striking out the name of Senator G. B. Strong, and inserting the name of Senator from Maine, and that of the kind recited in the resolution; and I suppose a resolution of the Senate ought not to read, that the Senate of the United States, since the day his colleague made his declaration, or perhaps a day or two previous to that.

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en act done, on any principle. It is no light matter to declare the seat of a Senator vacant on a supposition. The principle is a very dangerous one, to assume that a man has done an act, because he told you he would do it. He never did declare to the Senate; he never did tell you he would withdraw; but he just did withdraw. He never did tell you that he resigned. The other Senators who are spoken of did formally announce their determination to withdraw from the Senate, in sequence of action, after the Senate, and Mr. Brown never made such a declaration.

Mr. WILSON. I cannot attempt to quote the language of the Resolution, but it did make a sort of a declaration in regard to this matter, and left the Senate. I remember distinctly, and I suppose the debate will show it, the Senator from Maine had expressed a desire that he retire from the Senate, and that he had seen his colleague, and his colleague agreed with him in regard to the matter. A day or two after, Mr. Davis came into the Senate, and was quite apparent to the Senate, and left. It seemed that those Senators had held a consultation in regard to the matter, and Mr. Brown was among those; he told me what he should do, and Mr. Davis, a day or two afterwards, came in and made a formal address to the Senate on the subject. That is my recollection of it.

Mr. JOHNSON. I wish merely to state a fact. I believe the Senate of Mississippi passed the ordnance on the 5th of January, 1861, and Mr. Davis was the first senator to appear in the Senate and made his speech withdrawing from the Senate. I do not think that Mr. Brown was told that he should withdraw from the Senate. He may have remarked that he should obey whatever his State did, in some preceding speech, but on the 5th of January, 1861, and on the 10th of January, Mr. Davis appeared in the Senate, and made his speech of withdrawal. I do not think I was present when that fact occurred, but Supremely, Mr. Davis had withdrawn, stating that he would retire from the Senate. I therefore prefer that his name should be stricken.

Mr. POLK. If this amendment is resisted on the part of the Senator from Maine, I shall ask for the yeas and nays. I do not think the Senate ought to act as a fact which did not actually occur.

Mr. DOUGLAS. I ask the Senator to withdraw the amendment, and leave the yeas and nays for the present.

Mr. POLK. Certainly.

Mr. DOUGLAS. I wish to suggest an amendment that I think will obviate the necessity of a vote now here and of any action of facts. Perhaps we can avoid any decision upon these controversial questions and accomplish the object, and put the resolution of the amendment of the Senator from Maine, I think, that I propose that the resolution be amended so as to declare that these gentlemen "having ceased to be members of the Senate, the Senate be requested to omit calling their names." I think we can have an unanimous vote for that. All agree that they have ceased to be members; some of them are known "having ceased to be members of the Senate from Illinois." The main point is to settle that they are not any longer members of the body, and that their names shall be no longer considered as members. I merely suggest it to the Senator from Maine.

Mr. FESSENDEN. I do not know that that settles that their seats are vacant.

Mr. CLARK. Yes, "having ceased to be members." You may add the words, "and their seats having become vacant," if you choose.

Mr. DOUGLAS. The Senator from Missouri asks for the yeas and nays on the amendment of the Senator from Delaware.

Mr. POLK. The Senator from Illinois offers his amendment, I do not think it desirable to ask for the yeas and nays on the other question. If that is adopted—and I shall cordially vote for it—there will be no necessity for the amendment.

The VICE PRESIDENT. The question before the Senate is on the amendment of the Senator from Maine.

Mr. POLK. I ask for the yeas and nays.