

lution, and I suppose there can be no opposition to its consideration now:

Resolved, That the usual amount for the expenses of conveying the remains of a deceased Senator to his late place of residence be paid out of the contingent fund to the widow of Hon. Edward D. Baker, late a Senator from the State of Oregon.

Mr. FESSENDEN. That makes an appropriation, and it should properly be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The VICE PRESIDENT. All resolutions appropriating money out of the contingent fund must necessarily go to the Committee to Audit and Control the Contingent Expenses of the Senate, and have three several readings.

The resolution was read twice, and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

PACIFIC RAILROAD SURVEYS.

Mr. McDOUGALL submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That for the purpose of making corrections in the plate of the "map of Territory and military department of Utah," compiled in the Bureau of Topographical Engineers, and for printing one thousand copies of the same for Pacific railroad purposes; also for printing the same number of copies of the upper half of the general map of the territory of the United States, compiled by the War Department, showing Pacific railroad surveys, there be and is hereby appropriated out of the contingent fund of the Senate the sum of \$650.

WINTER QUARTERS FOR TROOPS.

Mr. LANE, of Kansas. I offer the following resolution:

Resolved, That the Secretary of War be requested to furnish to the Senate copies of the orders directing the erection of barracks and other buildings for winter quarters for the Kansas troops.

The VICE PRESIDENT. Does the Senator ask for the consideration of the resolution at the present time?

Mr. LANE, of Kansas. I desire the resolution to lie on the table at present; and to-morrow I propose to call it up, and submit a few remarks to the Senate on the subject.

The VICE PRESIDENT. The resolution will lie over.

PATENTS TO COLORED PEOPLE.

Mr. SUMNER. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on Patents and the Patent Office be directed to consider if any further legislation is necessary in order to secure to persons of African descent, in our own country, the right to take out patents for useful inventions, under the Constitution of the United States.

If I can have the attention of my friend, the chairman of the Committee on Patents, I should like to state to him why this resolution is introduced. It is within my knowledge that a person of African descent in the city of Boston has applied for a patent for a useful invention, and that it has been refused to him on the ground that under the Dred Scott decision he was not a citizen of the United States, and, therefore, that a patent could not issue to him. I wish the committee to consider whether that abuse can in any way be removed. That is all.

The resolution was considered by unanimous consent, and agreed to.

AIDS-DE-CAMP.

Mr. SHERMAN. I have a resolution to offer: *Resolved*, That the Secretary of War be requested to communicate to the Senate the names, rank, and pay of the aids-de-camp appointed under the act approved August 5, 1861, together with their rank and pay in the line at the time of their appointment.

Mr. GRIMES. I move to amend the resolution by inserting after the word "pay," where it first occurs, the words "and residence." I should like to know the citizenship of these individuals, so as to be able to identify them.

Mr. SHERMAN. I have no objection to inserting "and residence."

The resolution, as modified, was agreed to.

ESCAPE OF THE SUMTER.

Mr. HOWE submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire and report the circumstances attending the escape of the piratical steamer, the Sumter, from Fort Royal, on the 24th of November last, and that they have power to send for persons and papers.

PROPOSED EXPULSION OF MR. BRIGHT.

Mr. WILKINSON submitted the following resolution:

Whereas Hon. JESSE D. BRIGHT heretofore, on the 1st day of March, 1861, wrote a letter, of which the following is a copy:

WASHINGTON, March 1, 1861.

MY DEAR SIR: Allow me to introduce to your acquaintance my friend Thomas B. Lincoln, of Texas. He visits your capital mainly to dispose of what he regards a great improvement in fire-arms. I recommend him to your favorable consideration as a gentleman of the first respectability, and reliable in every respect.

Very truly yours,
JESSE D. BRIGHT.
To His Excellency JEFFERSON DAVIS,
President of the Confederation of States.

And whereas we believe the said letter is evidence of disloyalty to the United States, and is calculated to give aid and comfort to the public enemies: Therefore,
Be it resolved, That the said JESSE D. BRIGHT is expelled from his seat in the Senate of the United States.

Mr. COWAN. I move that the resolution be referred to the Committee on the Judiciary.

Mr. WILKINSON. Mr. President—

The VICE PRESIDENT. The first question is: "Will the Senate consider the resolution at the present time?" In the opinion of the Chair, it is a privileged question, and is entitled to consideration at the present time. The resolution is, therefore, before the Senate; and the question is on referring it to the Committee on the Judiciary.

Mr. WILKINSON. I should have offered this resolution some days ago, but for the fact that the Senator from Indiana was not in his seat. I have deferred doing it until this morning, when he is here. I should prefer, instead of having the motion of the Senator from Pennsylvania obtain, that the Senator from Indiana should express his wishes in regard to it. If he has no response to make, and no request to make in the premises, I do not see why it should be referred to all.

Mr. BRIGHT. I do not know, sir, how far it may be considered in good taste for me to say a word at this time on the resolution now before the Senate, but I think it is eminently proper that those who are most interested in my position in the Senate should know something as to the truth or falsity of charges that are being made against me through licentious presses, some of which, I believe, have reporters in the gallery of the Senate.

Among other things, it has been charged, within the last week, that I have absented myself from the Senate, fearing the introduction of what the Senator from Minnesota has this morning presented; and if I were not to announce the fact that I had been confined to my room from indisposition, the world might believe that these calumnies are true. Suffice it to say, that I have been absent for the last ten days on account of indisposition. In justice to myself I know that I ought not to be here to-day; but hearing that it was the intention of the opposite side of the Chamber to question my right to a seat in this body, I thought it proper that I should attend. So much for the gratuitous falsehoods of the press on this point.

The honorable Senator from Minnesota was kind enough to show me the resolution that he has presented, and ask me if I had any objection to its introduction. I said to him, what I now repeat, that, so far from having any objection, I challenged investigation. My colleague will bear me witness that as early as the first day of this session I asked him to take the lead, and introduce a proposition here inquiring into the truth or falsity of charges that have been industriously circulated against me ever since the close of the last Congress. The motives that prompt those engaged in this system of defamation I may speak of on some other occasion.

As the Senator from Minnesota has had a letter read that purports to have been written by me, I hope he will not object to sending to the Secretary and having read a letter that I wrote in reply to one from a friend explaining it, and let them go to the committee together. In this connection—as I shall not rise again—allow me to say that, after a service of seventeen years in this body continuously, I am not conscious of having written or said anything inconsistent with my duty as an American Senator or loyal citizen. If this resolution goes to the committee, I shall avail myself of the opportunity that will of course be afforded me of making a statement, either in person or writing, immaterial to me which. I hope the mover of the resolution will send to the Secre-

tary's desk the letter I refer to, that it may be read and referred.

The VICE PRESIDENT. This resolution will be referred to the Committee on the Judiciary, if there be no objection.

Mr. WILKINSON. I send up a copy of the letter referred to by the Senator in his remarks; explanatory of the former letter.

The VICE PRESIDENT. That will be referred with the resolution.

Mr. FESSENDEN. I understood it to be the desire of the Senator from Indiana to have it read.

Mr. WILKINSON. Let it be read.

The VICE PRESIDENT. The letter will be read.

The Secretary read, as follows:

AT MY FARM, September 7, 1861.

In reply to your favor of the 29th, just received, I have to say that I have been personally acquainted with Mr. Lincoln for more than twenty years, he having been at that time a prominent merchant of your city, where I was then residing, and was just entering on my career of life. He did me the favor to employ me as his attorney, and I generally attended to his legal business. The letter to which you refer is no doubt genuine. I have no recollection of writing it, but if Mr. Lincoln says I did, then I am entirely satisfied of the fact, for I am quite sure I would have given, as a matter of course, just such a letter of introduction to any friend who had asked it. So much for the letter.

You say the impression is sought to be created, on account of this letter, that I am in complicity with the southern rebellion. I have so little regard, indeed such an utter contempt for Abolitionism, which is seeking by every means in its power to "crush out" every man who dares to dissent from the policy it prescribes, that if it were merely to satisfy the corrupt partisans of that doctrine, I would not take the trouble of denying or attempting to counteract this impression. But for your sake, and the sake of such old tried friends as you, I think it due to myself to say, that I am, and always have been, for preserving the integrity of this Union. I was laboring zealously for its preservation when these men, who are now so clamorous for its maintenance, were willing to "let it slide" rather than abate one iota of their unconstitutional doctrine of inequality; and no man regrets more than I the present condition of public affairs, or is more anxious to see peace, unity, and fraternity restored. I do not think the policy of that party is calculated to produce such results; so far from it, the inevitable tendency of its measures, in my opinion, is to render the disruption permanent and incurable. And hence I have opposed, and so long as my present convictions last shall continue to oppose, the entire coercive policy of the Government. I hope this may be satisfactory to my friends. For my enemies I care not.

Sincerely yours, &c.,
JESSE D. BRIGHT.

J. FITCH, Madison, Indiana.

The VICE PRESIDENT. This paper will be referred, together with the resolution, to the Committee on the Judiciary.

REPORT ON THE FINANCES.

Mr. ANTHONY, from the Committee on Printing, reported the following resolution:

Resolved, That ten thousand extra copies of the report of the Secretary of the Treasury on the finances be printed, nine thousand five hundred of which for the use of the Senate, and five hundred for the use of the Treasury Department.

Mr. ANTHONY. This is the usual number—the number that was printed last year. If any Senator desires to cut it down, the committee are quite indifferent as to the number that shall be printed. The subject of the finances is very interesting now.

The resolution was considered, by unanimous consent, and agreed to.

NOTICE OF A BILL.

Mr. SUMNER. I give notice that I shall to-morrow, or on some subsequent day, ask leave to introduce a bill to provide for the ascertainment and satisfaction of claims of American citizens for spoiliations committed by the French prior to the 31st day of July, 1861.

In giving this notice, I make the explanation that I shall do it in simple justice to the claimants, that their case may be again before the committee, but with little expectation that at this moment it can be pressed to any decisive action.

BILLS INTRODUCED.

Mr. WILSON, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 107) authorizing an increase in the clerical force in the offices of the Adjutant General and the Paymaster General; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia; which

for a provision of this kind than in almost any other State of the Union, and for which we ought to make this very provision which is designed to be incorporated into our articles of war by the chairman of the Committee on Military Affairs. Hence I think the amendment to the amendment ought not to be adopted. The provision ought to be general. Let it be known, let the world know, that when this Government establishes a safeguard around a man's residence, or around any public property, or around any private property, no matter where it may be, whether upon loyal soil or disloyal soil, the man who violates it shall be punished.

Mr. DAVIS. I desire that this bill shall be made just as efficient as the Constitution will permit, and therefore I would prefer that the chairman of the Committee on Military Affairs should let the bill lie over until to-morrow, in order that it may be examined.

Mr. SUMNER. I was going to make that suggestion, because it is evident we cannot reach a conclusion at an early moment upon it, and it is important that we should go on with the special order. The bill has been taken up by unanimous consent, and the special order is really before the Senate.

The PRESIDING OFFICER. The bill will continue before the Senate until a motion is made to dispose of it.

Mr. WILSON. I move that the bill be postponed until to-morrow, for the purpose of accommodating Senators.

The motion was agreed to.

ASSISTANT SECRETARIES OF WAR.

Mr. WADE. I will move now to discharge the Committee on Military Affairs and the Militia from the further consideration of the bill I introduced yesterday. They make no objection to the motion.

Mr. SUMNER. Before the Senate proceeds, I want to say that I do not wish the special order to lose its place; that is all. I am in favor of the Senator's bill, and I cheerfully give way in the hope that it may be passed without debate.

Mr. WADE. I do not suppose it will take a moment. I merely wish to say, from the investigations before the committee of which I am a member, that this bill has become necessary; and it is of the first necessity that it should pass immediately. There are particular reasons for it, which I perhaps ought not to disclose. But it has been before our committee, and has been well considered there. It is required by the executive part of the Government now, to-day. They wanted it yesterday, and it cannot pass too soon. I hope the committee will be discharged from its further consideration, and that the bill will be permitted to pass at once.

The PRESIDING OFFICER. Will the Senator indicate the bill to which he refers by its number or title?

Mr. WADE. It is a bill to authorize the Secretary of War to appoint one or more Assistant Secretaries for a limited period—for one year from the time of their appointment.

The PRESIDING OFFICER. It is moved that the Committee on Military Affairs and the Militia be discharged from the further consideration of the bill indicated by the Senator from Ohio.

The motion was agreed to.

The PRESIDING OFFICER. It is now moved that the Senate proceed to the consideration of the bill (S. No. 164) to authorize the Secretary of War to appoint one or more Assistant Secretaries.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. WADE. I believe the language of the bill is to give the Secretary power to appoint "one or more" additional Assistant Secretaries. Some Senators object to that because it leaves an unlimited discretion in the Secretary. I am willing that it should be limited to two additional Assistant Secretaries.

Mr. CLARK. Say, "not exceeding two."

Mr. WADE. It is all the same. Let it be limited to two additional Assistant Secretaries. That is all that is desired.

The PRESIDING OFFICER. Does the Senator from Ohio move to amend the bill by striking out "one or more" and inserting "two?"

Mr. WADE. I will so modify it. It is my proposition yet, I believe.

The PRESIDING OFFICER. The bill will be so modified.

Mr. WILSON. I offer an amendment to strike out all of the bill after the enacting clause, and insert the following in lieu thereof:

That the President be, and he is hereby, authorized to appoint two Assistant Secretaries of War, whose salary shall each be \$3,000 per annum, who shall perform all such duties in the office of the Secretary of War belonging to that Department as shall be prescribed by the Secretary of War, or as may be required by law; the offices of these additional Assistant Secretaries to continue for one year.

Mr. WADE. I will inquire of the Senator who offers this amendment whether the salary fixed in it is the same as is now allowed to the present Assistant Secretary?

Mr. WILSON. Yes, sir.

Mr. HALE. I move to amend the amendment by inserting after the word "President" the words, "by and with the advice and consent of the Senate."

Mr. WILSON. Those words were in the proposition originally; but a portion of it was marked out. I wish to insert also the word "additional" before "Assistant Secretaries" in the first part of the amendment. The compensation that is allowed them is the same as that now received by the present Assistant Secretary of War.

The amendment to the amendment was agreed to.

Mr. TRUMBULL. Now let the amendment as modified be read, so that we may see what it is.

The Secretary read it, as follows:

That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, two additional Assistant Secretaries of War, whose salary shall each be \$3,000 per annum, who shall perform all such duties in the office of the Secretary of War belonging to that Department as shall be prescribed by the Secretary of War, or as may be required by law; the offices of these additional Assistant Secretaries to continue for one year.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading; read the third time, and passed.

On motion of Mr. WADE, the title was amended so as to read: "A bill to authorize the Secretary of War to appoint two additional Assistant Secretaries."

Subsequently, a message from the House of Representatives announced that they had passed the bill without amendment.

PROPOSED EXPULSION OF MR. BRIGHT.

Mr. SUMNER. I now call for the order of the day.

The PRESIDING OFFICER. The special order of the day, which was laid aside for the time being, will now be taken up. It will be read by the Secretary.

The Secretary read the following resolution, submitted by Mr. WILKINSON on the 16th day of December last:

Whereas Hon. JESSE D. BRIGHT heretofore, on the 1st day of March, 1861, wrote a letter, of which the following is a copy:

WASHINGTON, March 1, 1861.
MY DEAR SIR: Allow me to introduce to your acquaintance my friend Thomas B. Lincoln, of Texas. He visits your capital mainly to dispose of what he regards a great improvement in fire-arms. I recommend him to your favorable consideration as a gentleman of the first respectability, and reliable in every respect.

Very truly, yours, JESSE D. BRIGHT.
To His Excellency JEFFERSON DAVIS,
President of the Confederation of States.

And whereas we believe the said letter is evidence of disloyalty to the United States, and is calculated to give aid and comfort to the public enemies: Therefore,
Be it resolved, That the said JESSE D. BRIGHT is expelled from his seat in the Senate of the United States.

The PRESIDING OFFICER. The question is on the adoption of that resolution.

Mr. SUMNER. Mr. President, as I have the floor this morning on the discussion of this question, I desire to say, at the beginning, that if the Senator from Indiana wishes to be heard at this stage, I shall cheerfully yield the floor to him for that purpose; otherwise I shall proceed.

Mr. BRIGHT. The Secretary has not read the entire proceedings before the body.

The PRESIDING OFFICER. The reading of the report of the committee should have followed the reading of the resolution.

Mr. BRIGHT. He read a part only.

The Secretary read the report of the Committee on the Judiciary, as follows:

The Judiciary Committee, to which was referred the resolution to expel Hon. JESSE D. BRIGHT from his seat in the United States Senate, respectfully report:

That they are of opinion the facts charged against Mr. BRIGHT are not sufficient to warrant his expulsion from the Senate, and they therefore recommend that the resolution do not pass.

Mr. BRIGHT. Mr. President, it was not my intention when that report was made to say anything on this subject; nor had I concluded to do so until I heard the remarks that were made yesterday by the Senator from Minnesota [Mr. WILKINSON] and the Senator from Maine, [Mr. MORRILL.] I think it very probable that before the Senate is called upon to vote, I shall have something to say; not so much a speech as a narrative of facts, together with some of the motives that prompt this movement against me. I understand my colleague desires to speak upon this subject. I prefer to follow him. I have nothing to add at present.

Mr. SUMNER. Mr. President, the expulsion of a Senator is one of the most solemn acts which this body can be called to perform. The sentence of a court in a capital case is hardly more solemn; for though your judgment cannot take away life, it may take away all that gives value to life. Justice herself might well hesitate to lift the scales in which such a destiny is to be weighed. But duties in this world cannot be avoided. When cast upon us they must be performed, at any cost of individual pain or individual regret—especially in the present case, when the Senate, whose good name is in question, and the country, whose welfare is at stake, forbid us to hesitate.

In other similar cases, arising out of recent events, where the Senate has already acted, the persons in question were absent, openly engaged in the rebellion. There was no occasion for argument or discussion with regard to their guilt. It was conspicuous like the rebellion itself. In the present case, the person in question is not absent, openly engaged in the rebellion. He is still sitting among us, taking part in the public business, voting and answering to his name when called in the roll of the Senate. His continued presence here may be interpreted in opposite ways—according to the feelings of those who sit in judgment. It may be referred to conscious innocence, or it may be referred to audacious guilt.

That he should take his place in the Senate is not, therefore, necessarily in his favor. Catiline, after plotting the destruction of Rome, took his place in the senate and listened to the orator who denounced the treason; nor did the Roman patriot hesitate to point his eloquence by the exclamation that the traitor even came into the senate—*inno in senatum venit*. In the history of our own country there is a well-known instance of kindred audacity. Benedict Arnold, after commencing his correspondence with the enemy, and before its detection, appeared at the bar of a court-martial in Philadelphia, and yet with treason in his heart, and already in his acts, thus spoke, without a blush: "Conscious of my innocence and the unworthy methods taken to injure me, I can, with boldness, address my persecutors in general." You know well the result. The traitor who thus appeared and spoke in open court continued his treason. History teaches by example; and the instances which I now adduce admonish us not to be governed merely by appearances, but to look at things as they are, and to judge according to facts, against which all present professions will be of little avail.

I put aside, therefore, the argument founded on the presence of the person in question. That he still continues in the Senate, and even challenges this inquiry, does not prove his innocence any more than it proves his guilt. The question is still open, to be considered carefully, gravely, austere if you will, but absolutely without passion or prejudice—anxious only that justice should prevail. Your decision will constitute a precedent which will be important in the history of the Senate, either as a warning or as an encouragement to disloyalty. And since our votes are to be recorded, I am anxious that the reasons for mine should be known.

But the question may be properly asked if this inquiry is to be conducted as in a court of justice, under all the restrictions and technical rules of judicial proceedings. Clearly not. Under the Con-

stitution the Senate, in a case like the present, is the absolute judge, free to exercise its power according to its own enlightened discretion. It may justly declare a Senator unworthy of a seat in this body on evidence defective in form, or on evidence even which does not constitute positive crime. A Senator may deserve expulsion without deserving death; for in the one case the proceeding is in order to purge the Senate, while in the other case it is as a punishment of crime. The motives in the two cases are different. But this very discretion has been already exercised at this very session, as well as the last, in the expulsion of several Senators. And the two early precedents—the first of William Blount in 1796, and the second of John Smith in 1808—both proceeded on the assumption that the Senate was at liberty to exercise a discretion unknown to a judicial tribunal. In the well-considered report of the committee in the last case, prepared by John Quincy Adams, at that time Senator, we find the following statement, (Annals of Congress, Tenth Congress, vol. 3, p. 57:)

"In examining the question whether these forms of judicial proceedings, or the rules of judicial evidence ought to be applied to the exercise of that censorial authority which the Senate of the United States possesses over the conduct of its members, let us assume, as the test of their application, either the dictates of unfettered reason, the letter and spirit of the Constitution, or precedents, domestic or foreign, and your committee believe that the result will be the same; that the power of expelling a member must, in its nature, be discretionary, and in its exercise always more summary than the tardy process of judicial tribunals. The power of expelling a member for misconduct results, on the principles of common sense, from the interest of the nation, that the high trust of legislation should be invested in pure hands."

I do not stop to consider and illustrate this conclusion, which is thus sustained by precedent as well as reason. It is obvious that the Senate may act on any evidence which shall be satisfactory to show that one of its members is unworthy of his seat, without bringing it to the test of any rules of law. It is true that the good name of the individual is in question; but so also is the good name of the Senate, not forgetting also the welfare of the country; and if there are generous presumptions of personal innocence, so also are there irresistible instincts of self-defense which compel us to act vigorously, not only to preserve the good name of the Senate, but also to preserve the country menaced by traitors.

The facts in the present case are few, and may be easily stated; for, beyond certain presumptions, they are of public notoriety and above all question. Indeed, the whole case can be presented as plainly and as unanswerably as a mathematical proposition or a diagram in geometry.

On the 6th November, of the last year, Abraham Lincoln, of Illinois, was elected President. The election was in every respect constitutional; and yet, in violation of all the obligations of the Constitution, and all the duties of patriotism, a movement was instantly organized in the slave States to set aside this election by acts of conventions, if possible; but by violence, if necessary. The movement began in South Carolina, a State always mad with treason; and before the 1st of January then next succeeding, this State had formally disconnected itself from the Union, renounced the national Government, and ranged itself in open rebellion. Georgia, Alabama, Mississippi, and Louisiana followed, declaring themselves also in open rebellion; and the precise object of this rebellion was to form a new government, whose cornerstone should be slavery. The Senators of these States, one after the other, abandoned their seats in this body, announcing their determination to return to their respective homes, and leaving behind menaces of war, should any attempt be made to arrest their wicked purposes.

Meanwhile, military preparations were commenced by the rebel States, who made haste to take military possession of forts and other property belonging to the national Government within their borders. Already, before the 1st of January, the palmetto flag was raised over the custom-house and post office at Charleston; it was also raised over Castle Pinckney and Fort Moultrie, in the harbor of Charleston, which, with a small national force, surrendered to the rebels, while the national armory, containing many thousand stand of arms and military stores, was occupied by rebel troops, in the name of South Carolina. At Charleston, everything at this time assumed the front of war. The city was converted into a camp. The small

garrison under Major Anderson, after retreating from Fort Moultrie to Fort Sumter, was besieged in the latter fortress. Powerful batteries were erected at different points, in order to sustain the siege. From one of these batteries, on the 9th of January, a shot was fired at the United States steamship *Star of the West*, with the national flag at her masthead, bearing reinforcements for the garrison, and the discomfited steamship put back to New York. The darling desire was to capture Fort Sumter, and various plans were devised for this purpose. One rebel proposed to take the fort by floating to it rafts piled with burning tar-barrels, thus, as was said, "attempting to smoke the American troops out as you would smoke a rabbit out of a hollow." Another was for filling bombs with prussic acid, and sending them among the national troops. Another thought that it might be taken without bloodshed—through silver rather than shell—simply by offering to each soldier ten dollars of rebel money. Another proposed a floating battery, through which, under the protection of the guns from the stationary batteries, and with the assistance of an armed fleet, an attack might be made, while from some convenient point a party of sharpshooters might pick off the garrison, man by man, and thus give an opportunity to scale the walls. But such a storming, it was admitted, could be accomplished only at a fatal sacrifice of life, and it was finally determined that the better way was by a protracted siege and by starvation. Such, at this early day, were the propositions discussed in Charleston, and through the journals there advertised to the country.

The same spirit of rebellion, animating similar acts, appeared in the other rebel States. On the 3d of January, 1861, Fort Pulaski, a fortress of considerable strength near Savannah, was occupied by rebel troops of Georgia, acting under orders from the rebel Governor. On the 4th of January the national arsenal at Mobile, with arms, barrels of powder, and other munitions of war, was seized by rebel troops of Alabama; and so, also, was Fort Morgan on the same day. On the 11th of January the marine hospital, two miles below New Orleans, was seized by rebel troops of Louisiana, and the patients of the hospital, numbering two hundred and sixteen, were ordered away in order to make quarters for the rebels; thus repeating the indefensible atrocity of Napoleon when, near Dresden, he seized an insane asylum for his troops, and set its inmates loose, saying "Turn out the mad." On the 12th of January Fort Barrancas and the navy-yard at Pensacola, with all its ordnance stores, was obliged to surrender to armed rebels of Florida and Alabama, the commandant reporting to the national Government: "Having no means of resistance, I surrendered, and hauled down my flag." On the 24th of January the national arsenal at Augusta, in Georgia, also surrendered upon the demand of the rebel Governor. On the 31st of January the national branch mint, containing \$389,000, and the national sub-Treasury, containing \$122,000, were seized at New Orleans by the rebel authorities. Such, most briefly told, are some of the positive incidents of actual war through which the rebellion became manifest. And you do not forget that, throughout this anxious period, while these things were occurring, the national capital was menaced by the rebels, especially to disperse Congress, to drive away the national Government, and to seize the national archives. Nor can you forget that our patriot Commander-in-Chief, Lieutenant General Scott, under the exigencies of the time, changed his headquarters from New York to Washington, where he gave his best powers to the national defense—organizing the local militia, summoning the national troops, planting cannon, and in every way preparing to meet the threatened danger.

Meanwhile these rebel States, having declared their separation from the national Government, and having forcibly seized its strongholds and other property within their borders, proceeded to constitute themselves into a confederacy, under the title of the confederate States. Their constitution was adopted on the 8th of February, and the same day Jefferson Davis, of Mississippi, was elected president and commander-in-chief of the armies, and Alexander H. Stephens, of Georgia, vice president. Shortly afterwards, on the 21st of February, the president of the rebellion nominated a cabinet, in which Toombs, of Georgia, was

secretary of State; Memminger, of South Carolina, was secretary of the treasury; and Walker, of Alabama, was secretary of war. To this extent had the rebellion gone. It was no longer a mere conspiracy; no longer a simple purpose; no longer a mere outbreak; but it was an organized body, or rather several organized bodies massed into one, and possessing all the character and substance of government; but do not forget that it was a rebel government, set in motion by a conspiracy and now sustained by a declared rebellion, which openly disowned the national Government, openly seized the national forts, and openly dishonored the national flag. Of this flagrant rebellion Jefferson Davis became now the chosen chief, as he had been already for a long time the animating spirit. In him the rebellion was now incarnate. He was not merely its civil head, but also its military head. It was he who made cabinets, commanded armies, and gathered munitions of war. His voice and his hand were the voice and the hand of the rebellion itself. By his own eminent participation and the superadded choice of the rebels he had become its chief, as much as the Pretender was the chief of the disastrous rebellion in Great Britain, crushed on the field of Culloden—as much as Satan himself, when seated on his throne and rallying his peers of state, was the chief of an earlier rebellion.

That transcendent outrage, in itself the culmination of the rebellion, destined to arouse at last a forbearing people, had not yet occurred; but it was at hand. Fort Sumter had not been openly assailed; but the hostile batteries were ready, and the hostile guns were pointed; simply waiting the word of rebel command, which was not yet given.

It was precisely at this moment, on the 1st of March, 1861, that Jesse D. Bright, at the time a Senator of the United States, addressed the following letter to the chief of the rebellion:

WASHINGTON, March 1, 1861.

MY DEAR SIR: Allow me to introduce to your acquaintance my friend Thomas B. Lincoln, of Texas. He visits your capital, mainly to dispose of what he regards a great improvement in fire-arms. I commend him to your favorable consideration as a gentleman of the first respectability, and reliable in every respect.

Very truly yours,

JESSE D. BRIGHT.

To His Excellency JEFFERSON DAVIS,
President of the Confederate States.

And now, before considering the letter, look well at the parties and their respective positions. It is written by a person at the time a Senator, and addressed to a person at the time chief of the rebellion, in behalf of an unknown citizen, the owner of a great improvement in fire-arms. It is proper to add as an additional fact which will not be questioned, that the writer had been for a long time in notorious personal relations with the notorious authors of the rebellion, especially with Jefferson Davis and with John Slidell; that he had notoriously sympathized with them in those barbarous pretensions for slavery which constitute the origin and mainspring of this rebellion, and that he had always voted with them in the Senate. All this is notorious, and if the old maxim, *nosctur a sociis*, or, according to our familiar English, "a man is known by the company he keeps," be not entirely rejected, then this inquiry must commence with a presumption against such an intimate associate of the rebels. But, while looking at the writer, we must not forget the humble citizen who was intrusted with this letter. It is a fact, as I understand, that he has been since arrested for treason, and is now in the hands of the law charged with the highest crime known to justice, while the writer of the letter still occupies a seat in the Senate. Perhaps this is only another illustration of the saying of antiquity, that the law is a cobweb, which holds the weak, but which the powerful break through with impunity. The agent is now in custody; the principal is still in the Senate. So much at present with regard to the parties.

Next comes the letter itself; and here mark, if you please, first, the date, which is the 1st of March. This was at the very moment when the rebellion was completely organized and had assumed at all points the undisguised front of war. By various acts of war, it had forcibly dispossessed the national Government of all its military posts in the whole extensive region, except Fort Sumter and Fort Pickens, which it held in siege, while, by other formal acts, it had assumed to dispossess the national Government of all jurisdiction, civil or military, throughout this region. That

such acts constituted a "levying of war," within the meaning of the Constitution, is too plain for argument. This phrase was borrowed from the early statute of Edward III, and has received a positive interpretation in the country of its origin, according to which its meaning is clear. There is no better authority than Blackstone, who, when considering what is "levying of war," says: "This may be done by taking arms, not only to dethrone the king, but under pretense to reform religion or the laws, or to remove evil counselors, or other grievances, whether real or pretended; for the law does not, neither can it, permit any private man or set of men to interfere forcibly in matters of such high importance." (Blackstone's Commentaries, volume 4, page 81.) And Lord Mansfield, on the trial of Lord George Gordon, declared it to be the unanimous judgment of the court, that an attempt, by intimidation and violence, to force the repeal of a law, was a levying of war, constituting high treason. (Douglas's Reports, 570.) I quote these authorities simply that this argument may not rest at any point on my assertion. At the date of this letter, then, there was an actual levying of war by Jefferson Davis and his associates against the Government of the United States. And let me add that this levying of war was not merely that moderate constructive levying of war described by Blackstone, but open, earnest, positive war, backed by armies and by batteries.

You will next observe the address of this letter. It is "to his Excellency Jefferson Davis, President of the Confederate States." In bestowing upon this pretender the title of "His Excellency," the writer certainly exhibits a courtesy—at least in form—which usage does not bestow upon the President of the United States. It is well known that at the adoption of our national Constitution, the title of "Excellency," together with all other titles, was, after debate, carefully rejected for our Chief Magistrate; but the writer of this letter is apparently unwilling to deny anything to the Chief of the Rebellion. His profusion shows itself at once, and his first words become a confession. Not by titles of courtesy do loyal Senators address a traitor. There has been a king of England who, on one occasion, was only called Charles Stuart, and there has been a king of France who, on one occasion, was only called Louis Capet; and these great instances show how even the loftiest and most established titles have been refused where treason was charged. Titles are sometimes insincere; but a title bestowed testifies at least to the professions of him who bestows it. It is a token of respect, and an invitation to good will, proceeding directly from the writer. And in this spirit was this letter begun.

But not content with bestowing upon this Pretender a title of courtesy denied to our own President, the writer proceeds to bestow upon him a further title of office and of power. He addresses him as "President of the Confederate States"—meaning the very States then engaged in levying war upon the national Government. So far as this writer can go—just to the extent of his authority—the Pretender is recognized as President, and the rebel States are described by the very title which, in defiance of the national Government, they have assumed. Our own Government has steadfastly refused this recognition. Foreign nations thus far have followed substantially the policy of our own Government; but the writer of this letter, at the time a Senator, makes haste to offer his recognition.

Perhaps this double criticism on the address of the letter may seem unimportant. It might be so, if the address had been used in conversation or debate, although then it would be tolerable only if used in derision. But it becomes important when used directly to the Pretender himself, for then it signifies respect and recognition, while it discloses the mood of the writer.

Look, next, at the contents of the letter itself, and you will find all that is implied in the address painfully verified. The disloyalty which crops out in titles of courtesy and recognition, becomes full blown in the letter itself, whether we regard its general character or its special import; and I shall now consider these in their order.

In its general character, the letter is correspondence with a public enemy, in open war with our own country, or rather let me say it is correspondence with a public rebel. It is obvious that

all correspondence of such a character, even without considering its special import, is open to suspicion. Throughout history it has been watched with jealous judgment, as in the cases of Bolingbroke and Aterbury in England—of Pichereau and Fouché in France. Tried even by those technical rules, which in the present inquiry we reject, it may help complete the evidence of treason itself. The well-chosen language of the Constitution, borrowed from an early resolution of the Continental Congress, by whom it was borrowed from the early English statute, authorizes this conclusion. According to the Constitution, "treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort." Here are two classes of cases: the first is of levying war, which Jefferson Davis, as we have already seen, was notoriously doing at the date of this letter; and the second is adhering to the enemies, giving them aid and comfort. Even if mere correspondence with an enemy would not bring the writer within the scope of these words, clearly and beyond all question such correspondence is calculated to give at least moral aid and comfort to the enemy. Nor is it to be disregarded on this occasion, even if it does not reach the technical requirements of treason. If we listen to the Supreme Court of the United States in the case of Bolman, (4 Cranch Rep., 126,) we shall find that this tribunal recognized "any part, however minute or however remote from the scene of action," as a powerful element in constituting the crime of treason itself. Nor does this principle receive any abatement because it is applied to correspondence with rebels, for we are told by Blackstone that "most indisputably the same acts of adherence or aid which, when applied to foreign enemies, will constitute treason, will, when afforded to fellow-subjects in actual rebellion at home, amount to high treason." (Blackstone's Commentaries, vol. 4, p. 82.) According to these rules, an act of sympathy and friendship extended to persons in rebellion—though minute or remote—would be evidence to help bring the offender even within the cautious grasp of our Constitution.

But the letter in question is a letter of sympathy and friendship, from its beginning to its end; such a letter as only one friend could write to another friend. Dated at Washington on the 1st March, it was calculated, if received by the Pretender, to give him hope and confidence, by inspiring the idea that here in the Senate Chamber there was at least one person still wearing this high trust who, forgetting all that was due to his country, and forgetting all that was due to the rebellion, reached forth his hand in friendly salutation. Dated at Washington on the 1st March, it was calculated, if received, to awaken a doubt of the loyalty of the Senate itself, and to encourage the belief that here in this sanctuary of the Constitution, treason might hatch undisturbed. So are we all knit together, that we are strengthened by human sympathy, and the Pretender would have felt new vigor as the strength of the American Senate was transfused through the declared sympathies of one of its acknowledged members. The patriot soul recoils from the ancient traitor who flashed a signal torch from a beleaguered citadel; but one of our own number, who yet sits among us, has done this very thing.

Such is the necessary conclusion with regard to this letter, if we look at its general character. But when we look at its special import, the conclusion is still more irresistible. The letter clearly comes within the precise text of the Constitution. It is flat treason. I use no soft words, for the occasion does not allow it. Adhering to the enemy, giving them aid and comfort, must be proved by some overt act, of which Blackstone states the following instances: "As by giving them intelligence, by sending them provisions, by selling them arms, by treacherously surrendering a castle, and the like." Such are the precise words of this authority, and I do not stop to add to them. But this letter is an overt act of adherence, giving aid and comfort, identical with the instances mentioned by Blackstone. Read it—"Allow me to introduce to your acquaintance," so says the letter, "my friend Thomas B. Lincoln, of Texas." The bearer of the letter is thus commended as a friend of the writer; but a friend is something more than an associate or a confederate; he is almost a part of oneself. Thus accredited, his errand is next

announced, as follows: "He visits your capital mainly to dispose of what he regards as a great improvement in fire-arms." Mark the words "your capital." Such is the language of an American Senator, writing to the Pretender, whose standard of rebellion was then flying at Montgomery, in Alabama, which is thus deferentially designated as his capital. Mark, next, the declared object of the visit. It is "having to dispose of what he regards as a great improvement in fire-arms." Thus does an American Senator send actual, open, unequivocal aid to the Chief of the Rebellion. It is true he does not send him muskets or cannon; but he sends him "a great improvement in fire-arms," through which muskets and cannon and other instruments of death, then preparing to be employed by rebel hands against the patriot armies of the Republic, might be made more deadly. What are a few muskets or a few cannon by the side of such a comprehensive gift? When France, through the disguised agency of a successful dramatist, sent cast-off muskets to our revolutionary fathers, she mixed herself positively in the contest, and, under the law of nations, Great Britain was justified in regarding her conduct as an act of war. And when an American Senator, without any disguise, sends "a great improvement in fire-arms" to the rebel Chief, then engaged in levying war against his country, he mixes himself in the rebellion, so that under municipal law he is a traitor. This conclusion is harsh, and I state it painfully, but it is according to the irresistible logic of the law and the facts.

But the letter contains other language calculated to aggravate its guilt. Not content with sending "the great improvement in fire-arms," the bearer is thus again accredited to the rebel chief: "I commend him to your favorable consideration as a gentleman of the first respectability, and reliable in every respect." An American citizen going forth on an errand of treason is thus exalted by an American Senator. The open traitor is announced as "a gentleman of the first respectability." This is much to say of anybody; it is too much to say of an open traitor. But he is "reliable in every respect." All language is to be construed with reference to the matter which it concerns. The bearer of this letter, going forth on his errand of treason, is "reliable in every respect;" and as the universal contains the special, he is reliable especially for the purposes of his treason; and this is the commendation which he bears to the rebel Chief from an American Senator.

That such a letter should be signed, "very truly yours, JESSE D. BARBER," was natural, and the words are not mere words of form. The writer evidently, according to the contents of the letter—as appears alike in its general character and its special import—belongs to the rebel chief, and is one of his "own." In writing to the rebel chief he honestly subscribes himself, "very truly yours;" but a person thus belonging, and thus volunteering to subscribe himself, is surely disqualified for the confidential duties of this body.

Of course, in this inquiry, I have assumed the genuineness of the letter. If this matter were to be considered on technical grounds, the evidence would not be disdained even under the conservative words of our Constitution, according to which "no person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court." We have had the confession of the writer in open Senate, following a similar confession in a supplementary letter, to which reference has been made in this debate. There can be no doubt on this point, and the writer must stand or fall by his letter, unless something has occurred since which can be accepted in extenuation of such an unfortunate transaction.

It is true that the bearer of the letter was not able to present it. Before consummating his errand of treason he was arrested by the watchful officers of the law, and, as we have already seen, is now in custody. The agent is in the hands of the law, while we debate on the scat of his principal. At the risk of introducing a superfluous topic, I cannot forbear adding that the crime of the principal was perfect when he wrote the letter and delivered it to his agent. It was expressly decided in England long ago that a treasonable communication, "though intercepted, is an overt act of treason;" and this early principle was repeated by the Court of King's Bench, speaking by the voice of Lord

Mansfield, in the case of Dr. Hensey, (1 Burrow's Reports, 646); and again by the same court, under Lord Kenyon, in the case of William Stone, (6 Term Reports, 527.) It is completely applicable to the present case, even if our inquiry proceeded on technical grounds.

But the history of the transaction is not yet complete. Other incidents have occurred since, which have been strangely offered in extenuation of the original crime. At the arrest of the agent, towards the close of last summer, the letter was found among his papers. Of course, it excited much attention and some feeling. This was natural. At last the writer, who still sits among us, addressed a second letter to his late colleague in this body, Mr. Fitch.

Mr. BRIGHT, (from his seat.) It was not to my late colleague; it was to another Mr. Fitch.

Mr. SUMNER. Very well. The letter, which was dated "At my Farm, September 7, 1861," proceeds as follows: "The letter to which you refer is no doubt genuine. I have no recollection of writing it; but if Mr. Lincoln—the bearer of the letter—says I did, then I am entirely satisfied of the fact; for I am quite sure I would have given, as a matter of course, just such a letter of introduction to any friend who had asked it." Thus, as late as the 7th of September, in the retirement of his farm, the original letter was approved and sanctioned. I would not exaggerate the effect of this second letter, as I would not exaggerate any point in this unhappy case; but, in view of the character of the original letter, the second letter can only be considered as marking either a stolid hardihood of guilt, or a stolid insensibility to those rules of duty without which no man can be a good citizen; but either way, it only adds to the offensive character of the original transaction, and makes the duty of the Senate more plain.

I do not dwell on other topics of this second letter, because, though exhibiting bad temper and bad principles, they do not necessarily conduct to treason. The writer is welcome to express his "utter contempt for abolitionism," and also to declare his early and constant opposition to what he calls "the entire coercive policy of the Government." Such declarations may render him an unsafe counselor; but they do not stamp him as a traitor. And it belongs to us, while purging this body of disloyalty in all its forms, to maintain at all hazards that freedom of speech which is the herald and safeguard of all other freedom.

But there is other testimony which aggravates the case still further. Not content with writing the letter in question, on the 1st of March, 1861; not content with approving and sanctioning this letter on the 7th September, the writer very recently rose in the place yet conceded to him in this body, and deliberately said: "I have done nothing that I would not do over again under the same circumstances; and that I am not prepared to defend here or elsewhere." These words were uttered on this floor, in debate on another case which occurred as late as the 7th January of this year. Thus was the original act of 1st March again affirmed, and the relations existing at that time with the rebel chief proclaimed and vindicated; and all this was done in the American Senate without a blush. Alas! for that sensitive virtue which is the grace and strength alike of individuals and of communities. It surely was wanting in the person who could thus brave a just judgment; I fear it was wanting also in ourselves, when he was permitted to go without instant rebuke.

But I catch the suggestion that, at the date of this letter, war was not yet flagrant, and that the writer did not anticipate an actual conflict of arms. The first part of this suggestion is notoriously false. War had already begun, in the seizure of forts, and in the muster of rebel armies; nay, more: in the very presence of the writer of this letter, the gage of battle had been flung down on this floor by Senators who were leaving to take part in the rebellion. This has been unanswerably shown by the Senator from Minnesota, [Mr. WILKINSON.] But the second part of the suggestion attributes to the writer an ignorance of the well-known condition of things, which is inconsistent with his acknowledged intelligence. If the progress and development of the rebellion had been in secret; if it had been masked by an impenetrable privacy; if it had been shrouded in congenial darkness, then this apology might be entitled to attention. But the rebellion was open and complete;

and, on the 1st March, it was armed from head to foot and in battle array against the national Government. Such was the actual condition of things, patent, evident, conspicuous to the whole country. And permit me to say that any apology now offered on the pretext of ignorance shows simply a disposition to evade a just responsibility at any hazard of personal character.

I catch the further suggestion, that the letter was written in carelessness, or in heedlessness, if you please, and without treasonable intent. Of course such a suggestion must be futile, for every man is presumed to know the natural consequences of his conduct. This is the rule of law, and the rule of patriotism. No man can be admitted to set up any carelessness or heedlessness as an apology for an act of treason. And I doubt not you will all agree with me that a patriot Senator cannot be careless or heedless when his country is in peril.

But I catch yet another suggestion, which is, that this letter is trivial and insignificant to justify the condemnation of a Senator. Then, indeed, is disloyalty trivial; then is treason itself trivial. It is true the letter is curt. It contains a single short paragraph only. But I have yet to learn that crime is measured by paragraphs or sentences, and that treason may not be found in a few words as well as in many. It is true the letter is familiar in its tone; but treason is a subtle wickedness which sometimes stalks in state and sometimes shuffles in homely disguise. It belongs to us to detect it and to judge it, whatever form it may take.

Mr. President, let me not be unjust; let me not lean even ungenerally against an offender; but you will pardon me if I add, that against precise testimony, and in the face of unquestioned facts, I can find little in any present professions of loyalty which ought to be accepted even in extenuation of the offense. The duty of the Senate depends upon his former conduct, and not upon his present professions. It is difficult to imagine any present professions which can restore that confidence which is essential to the usefulness of a Senator. It is in the hour of trial and of doubt that men show themselves as they are, laying up for the future weal or woe; and not afterwards, when all temptation to disloyalty has been lost in the assured danger it must encounter, and when all positions have become fixed by events. Nor do I forget that mere professions have too often been a cover for falsehood. You remember well the story of Benedict Arnold. After making his escape from the fort which he was about to betray, and finding shelter on board the British frigate, the *Vulture*, then swimming in the North river, he addressed a letter to General Washington which begins, as follows:

"ON BOARD THE VULTURE, September 25, 1780.

"SIR: The heart which is conscious of its own rectitude cannot attempt to palliate a step which the world may censure as wrong; I have ever acted from a principle of love to my country, since the commencement of the present unhappy contest between Great Britain and the colonies; the same principle of love to my country actuates my present conduct, however it may appear inconsistent to the world, who very seldom judge right of any man's actions."—*Spark's Writings of Washington*, vol. 7, p. 533.

Perhaps these very words might now be repeated by the person whose seat is in question. He may be unwilling to be classed with Benedict Arnold; but the professions of that fugitive traitor are identical with the professions to which we have listened on this floor. There is still another letter to General Washington from the same quarter, only a few days later, which is equally suggestive. Arnold protests against the arrest and impending execution of Major André, who, he says, had acted under his directions, and his promise of protection; and he adds, "as commanding officer in the department, I had an undoubted right to transact all these matters," precisely as the person whose seat is now in question has availed in letter and debate that he had an undoubted right to open that traitorous correspondence with the Chief of the Rebellion. But I proceed no further with this parallel.

Sir, if the present question were to be decided on grounds of sympathy, it would be pleasant to record our names so as to give the least personal pain. But we should act weakly and ignobly if on any such grounds we failed in the double duty now so urgent, first to the Senate, of which we are members and next, to that country which has a right to our

truest and most unhesitating devotion. If there be among us any person still enjoying the confidential trusts, legislative, diplomatic, and executive, of this Chamber, who, since rebellion hoisted its flag and pointed its cannon, has failed in that loyalty which is an inviolable obligation—even though his offense may not have the deepest dye of treason—he is unworthy of a seat in the Senate; and be assured, sir, that our country, which knows so well how to pardon all that is pardonable, expects that no such person, whatever may be his present professions, shall be recognized any longer as a Senator.

Do not hesitate, then. The case is clear, and impartial history will so record it. No argument, no apology, no extenuation can remove or mitigate its requirements. There is a courage which belongs to this peaceful Chamber as much as to the battle-field, and now is the occasion for it. Above all, let no false tenderness substitute sympathy for judgment; and remember well that, while blasting a faithless Senator, you will elevate the Senate and inspire the country.

Mr. LANE, of Indiana. Mr. President, after the very able and interesting and exhaustive debate to which we have all listened, it would seem to be in bad taste for me to detain the Senate much longer by any remarks of mine. But the peculiar relation that the great State which I in part have the honor to represent upon this floor bears to the question under consideration, the deep and abiding interest which the people of that State may naturally be supposed to feel in the proper decision of the question, and the grave character and transcendent importance of the discussion must plead my excuse.

There is also a reason, personal to myself, why it may not be altogether improper for me to give to the country and to the Senate the reasons which control my action upon the present occasion. It will be remembered by the Senate that, three years ago, the Legislature of the State of Indiana, believing that the election of my colleague to a seat in this body was unconstitutional and void, elected me to that same seat; and that I came here to contest his right to a seat upon this floor, under that legislative election. I am not here now to open again that discussion, although, if it were proper, it would give me great pleasure to do so. I remember the incidents of that contest perfectly. You remember them. I believed then, as I believe now, as I believe in my own existence, as I believe in God above me, that that was a partisan decision, in violation of law, and in violation of the Constitution of the United States and of the State of Indiana; but I refer to it now, not for the purpose of reopening that discussion, which has already passed, but simply for the purpose of assuring the Senate that no recollection of the injustice perpetrated against me upon that occasion; no memory of the outrage perpetrated upon the honor, the independence, and the constitutional rights of Indiana, mingles with my consideration of this question. I am here now, if I know myself, to consider it as a new and original question, upon its own merits. If I know myself, I have no feeling of personal ill-will or unkindness towards my colleague. My heart is too full of gloom and sorrow and apprehension on account of the condition to which traitors and treason have brought the country to leave room for personal or partisan feeling. I see before me my torn, distracted, and bleeding country, that country which I have sworn to support, and that excludes from my vision all other objects. Upon an occasion like this, he is no patriot, nay more, he is no man, who will not trample under his feet every unworthy suggestion and every selfish motive. I shall endeavor, in approaching this discussion, to be free from partisan or personal prejudice. You will readily believe, Mr. President, that it is no pleasant duty which now calls for my action upon this occasion; but to me, if the pathway of duty is plain, however unpleasant or difficult it may be, I shall tread that pathway, I shall follow my convictions of right and duty and the lead of my principles, even though they shall lead me to the flames of martyrdom. Mr. President, in an hour like the present we should endeavor to raise ourselves to the height of this great argument, involving, as it does, the character and conduct of one of our associates, a member of this high body; involving the constitutional rights of a sovereign State of the Confederacy; involving

the honor, the interest, the peace, the welfare, and it may be, the very existence of the only free Government upon earth. The confidential relation which the Senate bears to the executive branch of the Government, the high powers with which the Constitution clothes the Senate, the perilous times in which we live, make it our first, most imperative, most sacred duty, to see that none but true and loyal men should be permitted to hold seats in this body.

This, Mr. President, being the nature of the great discussion upon which we have entered, we should approach it with calm and dispassionate reason, with enlightened patriotism, with a profound sense of the public duty that rests upon us. On an occasion like this we should by the purity of our conduct vindicate the dignity of human nature and the grandeur of human conduct. How stands the question before the Senate and before the country? Before I enter upon the discussion of the subject, permit me to do justice, ample and full justice, to my colleague upon this floor. Upon the first day of the present session, my colleague told me that he desired, invited, and requested the utmost scrutiny of the Senate into his conduct. I give him the benefit of that manly avowal of a desire for full investigation.

A resolution was introduced by the Senator from Minnesota for the expulsion of my colleague, reciting a letter written by him on the 1st of March, 1861. We can only read that letter in the light of contemporaneous events, in the light of the circumstances surrounding the country at the time the letter was written. I cannot unbosom any man and look into his intentions and his motives; that power is reserved to Omniscience alone; nor do I pretend to judge of the motives of my colleague; I simply judge of his actions. I determine in my own mind this, as I would any other issue of fact, upon the evidence on file before the Senate and before the committee. I do not desire to travel out of the record to find a case against any one. If the evidence does not warrant expulsion, he should not be expelled; if there is no proof of treason or disloyalty against him, my colleague should not be expelled upon mere suspicion. The report of the Committee on the Judiciary is, I grant you, a circumstance *prima facie* in favor of my colleague; and ordinarily, with my high respect and admiration for that distinguished committee, I should not perhaps feel at liberty to differ from their conclusions; but it may be that the committee had before them explanations and statements which are not now before the Senate or before the country. If so, I am willing that my colleague shall have the benefit of such explanations, if any member of the committee chooses to give them to the Senate. Whether such a state of facts existed in the committee-room or not, I have no means of knowing.

Mr. President, I understood the Senator from Delaware [Mr. BAYARD] to say yesterday that at the time this letter was written neither my colleague nor the country believed or had reason to believe that war was imminent, or that civil war would result from this unholy, unprovoked, and God-cursed rebellion. Either the Senator from Delaware or myself is totally mistaken in reference to the condition of the country on the 1st day of March last. At the risk of some repetition, I will call the attention of the Senate again to the state of the country at that time. I have here a very brief synopsis of the principal steps taken by the rebels in the inauguration of the present disastrous rebellion; and I will state them to the Senate.

As early as the 20th of December, 1860, South Carolina passed her ordinance of secession. On the 20th of the same month, she seized all the public property in the harbor of Charleston, and through her Governor accepted volunteers, who were, upon the 23th of December, assembled in the neighborhood of Charleston, throwing up fortifications, beleaguering that city, and threatening the defenses of Charleston harbor. Any of these acts, the least, is an act of war; so that war did exist in the country as early as the 23th of December, 1860—war openly levied against the Government of the United States. On the 9th of January, 1861, Mississippi seceded; and upon that very day, that ill-fated day, when Mississippi inaugurated this "feast of blood and dance of death," the Star of the West was fired into, the flag of her country that floated at her masthead was insulted—that proud flag which, up to that hour,

had represented the grandeur, the unity, the nationality of the Republic—that flag, around whose historic glories the proudest recollections of every patriotic citizen clustered and must cling forever. There was an act of war; and yet the Senator from Delaware tells you that war did not exist, although the flag of the country was fired upon, and under what circumstances? That frail bark spread her white wings to the breeze, and was wafted on upon her errand of mercy to feed a starving garrison. The very circumstances of that sacred mission would have melted the heart of a savage; but, instead of compassion and protection, the Star of the West was fired upon at the imminent danger of sinking the ship; yes, fired upon by cannon stolen from the public arsenals. And yet gentlemen tell us that war did not then exist; that it was not even imminent, and that no one had a right to apprehend a state of war! Oh, no! the attack upon the Star of the West was eminently friendly and pacific! They did not intend to make war upon the Government of the United States; they only intended to sink our ships, to seize our forts, to plunder our arsenals, to rob our custom-houses, to starve our garrisons—that was all. They did not dream of war; all these acts were but their awkward way of expressing their love for us.

On the 10th of January, 1861, Alabama and Florida seceded. On the 21st of January Jefferson Davis withdrew from his seat in the Senate, and in his retiring speech flaunted the flag of the rebels in your faces in this Senate Chamber. He left here to inaugurate a state of war and rebellion which was to desolate the country, and drive you from the capital. When did that happen—prior or subsequent to the 1st of March, 1861? On the 21st of January, 1861, he left the Senate. On the 8th of February, 1861, Davis was elected president of the confederate States, assuming then, under a pretended and self-constituted government, the very title which my distinguished colleague was so soon to bestow upon him. If this letter had not been written after that event was known to the whole world, its character would, perhaps, be materially changed; but it was after every Senator knew that he claimed to be the head of a rebel and insurrectionary government; after the recording pen of history had chronicled the inauguration of this terrible rebellion. All the waters of another deluge cannot wash out the stain of this terrible treason. This, bear in mind, was all before the 1st of March, 1861. On the 21st of February, 1861, Davis appointed his cabinet, assuming the powers belonging to a legally elected President of the United States, putting in operation his government. In a moment this fact was telegraphed all over the country. It was no secret here. You all knew, not only that he claimed to be president, but that he had appointed his cabinet on the 21st of February, 1861. Shortly afterwards, Louisiana and Texas passed their acts of secession—Louisiana prior to the 1st of March, and Texas after that date.

From that hour, so far as they had it in their power, the revolution was accomplished. They had taken a final step. Their president was elected; their cabinet was appointed; their congress called out volunteer troops to sustain their government, and those troops were already in the field marching to the conquest of your cities and fortifications. Such was the condition of things at the time when this letter was written. You all remember it. You remember how the miasma of treason poisoned the very air we breathed; how the shadows of the coming storm darkened the whole heavens—that storm which has since burst in fury on the land. You remember that then we hardly felt safe even in the capital of the nation. The officers of the Army and Navy—those potted and spoiled children of the Republic—were leaving the ranks of the Federal Army, and taking service under the rebellion. At that time, it seems to me, we cannot ignore the fact that war was not only imminent, but actually existed in our midst.

You recollect, Senators, another circumstance of deep humiliation to every patriot in the land, when your legally-elected President of the United States had to seek the cover of midnight and an ignoble disguise in order to reach the capital of that country, whose Chief Magistrate he had been elected by the free voice of the people, and under all the forms of the Constitution.

This was all before the 1st of March, 1861, the

date of the letter. But, Mr. President, to whom was this letter addressed? In order to get at the proper meaning and interpretation of a letter we look to the date, we look to the person on whose behalf it is written, we look to the person to whom it is addressed. This letter was addressed to Jefferson Davis, late a Senator in this body, who had been reared and educated at public expense, who had held high command in your armies, who had been a Cabinet officer, who had been a member of this Senate, who had added to treason the infamy of ingratitude. To him this letter was addressed.

"How are the mighty fallen!
Since he, miscalled the morning star,
Nor man nor fiend hath fallen so far."

To him, of all others, this letter was addressed—to him, the arch high priest of rebellion, who has systematically, for the last twenty years, sought "to fire the southern heart" to this very point of treason. Gentlemen say, in explanation, it is a mere ordinary letter of introduction. It may be so. They say that it was a mere inadvertence—that the writer thought nothing of it, or so little that he had even forgotten that he had ever written the letter. This may be so. If so, it was a fatal and terrible mistake, under the circumstances, to write any such letter. What is the controversy to-day that agitates the whole country? Whether secession is a constitutional right; whether Davis is the president of a constitutional government? Both these facts seem to be taken for granted and admitted in the letter now in evidence before the Senate. I grant you that the address of a letter is very often a mere matter of form; still he is addressed as the president of the confederate States—the very title that he assumes; the very title that we resist. The whole controversy is yielded the very moment we yield the fact that he is or can, by possibility, be the president of the confederate States, as claimed by him. There is the first circumstance. I make nothing out of the fact that Mr. Lincoln, the man in whose behalf the letter was written, has subsequently turned out to be a traitor, and is now indicted for treason. I make no point upon that, because I know that politicians are liable sometimes to make unreliable, dangerous friends, and to be deceived by them. The fact that he is indicted for treason only shows this, that the writing of the letter was not only a mistake, but that the man in whose behalf the letter was written was wholly unworthy of credit and confidence; if my colleague believed that he was innocent and loyal and patriotic, he must have been most cruelly deceived.

Mr. President, what other circumstances do we meet in our further progress in this letter? What were the objects for which Thomas B. Lincoln sought an interview with Jefferson Davis? Supposing that my colleague might have innocently written a letter on an indifferent subject to Davis, and might have given him his honorary title, and still be guilty of no disloyalty to the Government, when we look at the object sought to be accomplished by this letter, I cannot doubt that disloyalty must have entered into the mind of my colleague. Was it to dispose of any valuable improvement in arts or mechanics? Was it to dispose of a patent reaper, an improved engine for the purpose of running a railway train, or anything calculated to advance the arts of peace and to develop the wealth of the country? If such had been the object, it would have furnished an excuse for the letter; but of all things most objectionable, it is to make sale of what "he regards a valuable improvement in fire-arms." And under what circumstances? Had not war been levied against the country? The distinguished Senator from Delaware said that when this letter was written no one contemplated a state of war, and least of all my distinguished colleague from Indiana. Let me tell that Senator that the letter shows that not only Thomas B. Lincoln, but the Senator from Indiana, must have anticipated a state of war. What is the object sought to be accomplished by the introduction? The sale of an improved fire-arm. If no war was to result, what use would Jefferson Davis have for an improved fire-arm? If no state of war existed, why should he go to Jefferson Davis, above all others, to sell an improved fire-arm? Was Jefferson Davis the head of the Ordnance Bureau at Washington? Was he Secretary of War of the United States? Had he a right to purchase improved

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fire-arms for any loyal and legitimate purpose? No, sir. A sale could only be made to him on the supposition that war was imminent or really existed. I ask gentlemen for an explanation of that point. If the letter was perfectly innocent, if no state of war was then contemplated, why go to Davis to sell arms? Why not as well go to any Senator upon this floor and offer to sell him an improved fire-arm? As it strikes me, it could have had but one single object—to give aid and comfort to the public enemies of the United States.

Upon this question I desire to be understood. I suppose that disloyalty may exist without actual treason. Simple disloyalty may exist and not involve the crime of treason. Disloyalty consists in intention; it is a sentiment of the heart. Treason can only consist in overt acts, in levying war against the United States, and in giving aid and comfort to the public enemy. If disloyalty is good cause for the expulsion of a member—as I suppose no Senator will deny—a member may be guilty of disloyalty to the Government and not be technically guilty of treason. But if we were forced to place the argument upon that ground, I take it that there is enough in the letter unexplained to convict the Senator of treason before a jury of the country. What is treason against the United States? "Treason against the United States," according to the Constitution, "shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort." Here are three distinct offenses constituting the crime of treason. What is the first? Levying war against the United States. If you sell an improved fire-arm to a rebel in arms already using arms for the purpose of overthrowing the Government, do you not aid him to levy war against the United States? That is the first element in the crime of treason. The next is, "by adhering to their enemies, giving them aid and comfort." What do we understand by adhering to public enemies? Doing anything calculated to advance their cause, and to strengthen their opposition to the Government of the United States by force of arms. Then I believe that the letter unexplained has in it all the essential elements of treason. If my colleague shall succeed in clearing every taint of disloyalty and treason from his character and conduct, no man will rejoice more heartily at it than I shall; but I take the letter precisely as the record presents it.

So much for the letter of the 1st of March, and the object for which it was written—the sale of an improved fire-arm to Jefferson Davis. Against whom was that improved fire-arm to be used? Against the President of the United States, against the constituted authorities of that Government which the Senator had sworn to support. It may be that that improved fire-arm added to the slaughter at Bull Run; it may be that that improved fire-arm of Thomas B. Lincoln added to the terrible butchery at Ball's Bluff—a butchery which fills the nation's eyes with tears, but which brings no blush of shame to the nation's cheek; for there heroes as grand as human history has ever embalmed earned a martyr's glory and a martyr's grave. The blood runs back cold upon my heart when I think that perhaps those ill-fated sons of Pennsylvania and Massachusetts may have reaped the first ripe, rich fruits of Thomas B. Lincoln's improved fire-arms at Ball's Bluff.

But, sir, I shall not fatigue the Senate by a further reference to this letter of the 1st of March. You know to whom it was written, and the circumstances under which it was written. You are prepared to make up your judgment in reference to its character. I approach now another letter; the one written on the 7th of September, 1861, addressed to Mr. Fitch, of Madison. In that letter there is, to my mind, a sentiment far more obnoxious to the charge of disloyalty than anything contained in the first letter.

What is loyalty? Faith, good faith to the Government under which we live. Every native-born citizen owes loyalty to the Government under whose protection he is born. That Government in return owes him protection. That loyalty re-

sults, it may be, from the accidents of birth and residence; but every foreign-born citizen owes the same loyalty whenever he takes the oath of allegiance to this Government. Then, what is disloyalty? Unfaithfulness to the Government. Are the sentiments contained in this second letter consistent with good faith to the Government? I pass by all that is said upon the subject of abolition. You have already heard one much more competent to speak upon that subject than I have ever pretended to be—the distinguished Senator from Massachusetts. When he passes from the topic of abolition I, at least, should not hope to add any interest to it. I have no charge to make in reference to what is said in this second letter against abolitionists; but the sentiment in it to which I wish to call your attention is this: "I have always been, and am now, opposed to all the coercive measures of the General Government."

What are these coercive measures? It is a wide and a most significant phrase—"I have always been and am now opposed to all the coercive measures of the General Government." Repeating the same argument that was used here during the last session of the Senate, against the coercion of a State, I suppose my distinguished colleague meant that he was opposed to the coercion of a State. Well, sir, what is coercion as used by the General Government? It is the use of the power, the physical force of the General Government, to enforce the laws in the seceded States, to preserve the Union, and to protect the public property. Gentlemen say sometimes that they are opposed to the coercion of a State. The thing is utterly impossible under the theory of our Constitution. You may not coerce a State in any event. The Constitution of the United States within the scope and sphere of the powers there conferred by it, is paramount and supreme, and operates not upon States but upon individuals; and the enforcement of the laws against rebellious citizens is not obnoxious to the charge of coercing a State. The laws of the United States operate directly upon the rebellious individuals; and it matters not whether they are one or five hundred, the principle is precisely the same, except that wherever an organized resistance to the laws assumes such vast and gigantic proportions as to interfere with the ordinary process of the courts of law, it then becomes insurrection and rebellion, and the President, by the terms of the Constitution, has the power, nay more, it is his sworn duty to crush and put down that rebellion or insurrection. So much for the doctrine of coercion as it exists in the Federal Constitution.

The distinguished Senator from Delaware says he knows that some men believe it is treason and disloyalty to find fault with the Republican party. I, Mr. President, am not obnoxious to that charge. If I know myself, I allow and I claim the largest liberty, the utmost freedom of thought and of speech. But is there no difference between opposing the coercive policy of the Administration in reference to a systematic conspiracy to destroy the Government, and opposing the dogmas or the platform of a party? Cannot gentlemen see the world-wide distinction between a party platform and the Constitution of the United States? I owe allegiance to the Constitution; I have sworn allegiance to it as a citizen and as a Senator. Cannot gentlemen see the wide distinction between opposition to the Republican party and opposition to the Government under which we live? But it has also become fashionable in certain quarters to make prejudice against this war by calling it "an abolition war," "Lincoln's war," and "Lincoln's abolition war." Who is Lincoln? The servant of the people—a faithful servant. Is this his Government? No, sir; it is your Government, my Government, the Government of the people; and the man who, in a crisis like this, can talk of "Lincoln's war" is a ready-made slave to the hand of any tyrant who chooses to use him. [Applause in the galleries.]

The VICE PRESIDENT. Order!
Mr. LANE, of Indiana. "Lincoln's war," indeed! Can gentlemen, in their love of party,

forget all that they owe to country? Suppose you have been defeated by the Republican party in your race for position and power; have you not yet the grandest people, the noblest Constitution, the freest Government upon earth? I ask you to direct your attention to the Government of the country, and if possible forget the behests of party.

But, Mr. President, to return. What are the coercive measures of the present Administration? Prior to the 4th of March last, the Secretary of War, under the then existing Administration, ordered all the regular forces convenient to the city of Washington to hasten here, for the purpose of preserving the peace during the inauguration ceremonies of the 4th of March. That was one of the coercive measures of the Government. Do gentlemen oppose that? Have they opposed that from the beginning? Did they desire that the light of freedom should be quenched in the blood of her votaries in this high Senate Chamber on the 4th of March? If not, I suppose they did not oppose that as one of the coercive measures of the Government.

After the inauguration of the rebel government; after the appointment of its cabinet officers; after they beleaguered the city of Charleston, and seized and plundered your public property all over the southern States, the President issued his proclamation calling forth seventy-five thousand of the volunteer militia of the United States. That was another measure of "coercive policy." Do gentlemen oppose that? Have they opposed it? If so, follow out that opposition to its legitimate conclusions, and what does it result in? That you would have been driven long ere this time from the seats you now occupy here.

The increase of the Army was another measure of "coercive policy;" the proclamation for two hundred thousand volunteers was another measure of "coercive policy;" the incarceration of rebels and traitors in the public prisons was another measure of like character; the suspension of the writ of *habeas corpus* was another measure of "coercive policy;" to all of which measures my distinguished colleague interposes his opposition—his unflinching, persistent, and determined opposition. But, Mr. President, these coercive measures of the Administration have still a wider scope. Every single dollar voted by way of taxes is a coercive measure of the Administration; for without taxes you cannot maintain your armies, and feed and clothe and march them. Then every act of taxation is one of the coercive measures of this Administration; and surely in a state of war like the present, the levying of taxes is not only a measure of coercive policy, but is indispensable to the prosecution of this war. I know that gentlemen seek to create a prejudice against this war by crying out "hard times and high taxes;" seek to inaugurate a counter revolution by appealing to the most ignoble and detestable motives that can ever control human action. Your fathers had hard times and high taxes for seven years during the Revolution, and to that cause you owe your right to sit here now in high council and deliberation. I know not how it may be with other Senators, but for myself I am in favor of every single measure of coercion adopted by the Administration. I will vote the last dollar in taxes, the last soldier that may be called for; nay, more, I will prosecute this war at any and all hazards, even though it should result in the bankruptcy of every individual and corporation in the Union. I would give the very garments off my shoulders to prosecute the war; nay, more, I would die a pauper, and be buried by public charity, rather than suffer the war to fail for want of taxes. [Applause in the galleries.]

The VICE PRESIDENT. The Sergeant-at-Arms will clear the gallery to the right of the Chair, and debate will be suspended until that order is carried into execution.

The Sergeant-at-Arms cleared the western and northwestern galleries.

Mr. LANE, of Indiana. Mr. President, no one regrets more than I do the interruption that has just taken place in violation of the decorum of the

Senate. I may perhaps have been betrayed into a warmth unbecoming the occasion, but I hope it will be attributed only to my desire to advance the great interests of our common country, and not to a desire to appeal to outsiders who have no right to decide the grave question upon which we are now deliberating.

I was endeavoring to show that every tax bill of the last session and the present session of Congress was directly, in its intent, meaning, and spirit, a part and parcel of the coercive measures of the present Administration. I suppose the assembling of your troops to defend the capital is another act of coercion upon the part of the General Government. What would gentlemen have? Would they oppose that act of coercion? It is surely embraced in the scope of the second letter of my distinguished colleague. We are told that we may not invade a State, a sovereign State. In order to defend the capital at Washington it is necessary to take possession of Arlington heights and Alexandria, to march your armies into Virginia to defend the capital. That, according to the logic of gentlemen, is an act of coercion; but could it have been dispensed with? Could the President have refused, in the exercise of his high power, to defend the capital where the Government was administered? If he could not, then surely there is one act of coercion which my colleague would not oppose, and which he has not opposed. I suppose the sailing of your coast fleet to Hatteras Inlet was an act of coercion. I suppose that the expedition to Beaufort, under Dupont and Sherman, was another of the coercive measures of the present Administration. It has become so fashionable to oppose the doctrine of coercion, that it seems at times there is danger of this fatal heresy seizing upon officers high in command in your Army, and paralyzing the upraised arm of this great nation ready to strike down rebellion.

The expedition to South Carolina was one of the coercive measures of the Administration, and it was a measure called for by the exigencies of the times and by the situation of the country, and I only regret that it has not done more to punish traitors and crush rebellion. I only regret that that expedition has not long ere this left Charleston a heap of smoldering ruins—the only fit monument for her transcendent folly and enormous crime. That would have been an act of coercion that would have met my hearty cooperation and support.

So of the other coastwise expeditions; they are acts of coercion. The stationing of your troops upon the Potomac river is an act of coercion that gentlemen oppose. While they are opposing these acts of coercion, why do they not tell us about coercion upon the other side? Why do they not tell about the two hundred thousand troops whose morning drum-beat and nightly tattoo are almost in hearing of the capital? Why not speak of the acts of coercion inaugurated by rebels? Why not speak of the open defiance at noon-day of a rebel flag, wet with the blood of our slain soldiers, flaunting in your face in sight of the dome of this very Capitol? There is an act of coercion that nobody seems to denounce; but to my mind it is an act which should be denounced by every patriot, and by every citizen. Why not speak of the rebel acts of coercion in Missouri? When the rebellion broke out, and an attempt was made to force Missouri into secession against the declared will of her own people, sixty thousand rebels in arms were brought to bear to crush out all loyalty and truth in the Commonwealth of Missouri, and our armies were rallied there around the standard of the country to oppose traitors, and to protect the loyal. That was an act of coercion which I will not believe my colleague has always opposed or ever would oppose. An act of coercion is now going on in the State of Kentucky. In the proud and noble old Commonwealth where my eyes, upon one of her ten thousand green hills, first beheld the light of heaven, there an act of coercion is going on—the use of the force of the General Government to crush out treason, and protect loyal men in Kentucky.

What is the history of the use of force in Kentucky? In violation of express pledges, in violation of the most sacred compacts, in violation of the Constitution, that State is invaded by rebels from abroad. They come to Kentucky with curses on their lips, with arms in their hands, with hell

in their hearts to make a desolation of the loveliest land that the sun ever shone upon; and yet, for opposing them, we are to be told that we are coercing a sovereign State! We are coercing a sovereign State because we are defending the integrity of the Commonwealth of Kentucky. This heresy, as I verily believe, this deadly heresy, has no foothold in Indiana. She has shown that she does believe in all the coercive policy of the General Government. She has sent of her gallant sons sixty thousand troops to uphold the proud flag of the nation. Upon every battle-field where a single son of Indiana has done battle for the cause and the country, there victory has perched upon our banners. Her soldiers have plucked green laurels from every well stricken battle-field to deck the brow of our noble young Commonwealth. Indiana, so far, thank God, has participated in no reverse, no repulse, and no defeat; and so may it be to the end, and let all the people say, amen. So far, Indiana has shown that she does believe in the coercive policy of the General Government, and the whole of that coercive policy. Her citizen soldiery at Cheat Mountain sealed with their blood devotion to the doctrine of coercion. At Carrack's Ford, at Gauley Bridge, at Laurel Hill, at the Wild Cat Gap, in Kentucky, and more recently at Somerset, the citizens of Indiana have shown that they believe in the coercive policy of this Government. The tenth Indiana regiment, which was engaged in the recent battle at Somerset, was recruited in my own district, in my own neighborhood, and I almost dread to hear of the slain in that battle, for they are friends and neighbors. The news of that battle, however glorious it may be, will carry mourning and gloom and sorrow to many a heart and many a hearthstone; but it is a sacrifice that patriots have in every age been called upon to render to their country; and I trust that patriotism will always be equal to the task. Whenever the national honor requires a sacrifice, Indiana will furnish the victim.

I feel that I have already detained the Senate longer than I should have done, perhaps, on this occasion. There are other measures of coercion about which I desire to speak for a few moments, and it is the coercion that must emanate from the Congress of the United States. I believe that the war-making power, under the Constitution, rests with Congress. I believe you cannot put aside your duty in the matter. You are the grand inquest of the nation. You raise armies, and feed and clothe them. You cannot ignore your power. It is your duty to look to the proper prosecution of this war. It is your constitutional and sworn duty, and between you and that sacred duty you cannot interpose the person of a President, a Secretary of War, a commanding general, or any one else. It is for you, speaking in behalf and in the name of the people, to prosecute this great war properly and for legitimate purposes. Why is the war waged? Simply to coerce the rebellious citizens of the seceded States; simply to enforce the laws and preserve the Constitution and the Union.

"It hath this extent, no more."
It was waged in behalf of the integrity of the Constitution and the supremacy of the laws, and whenever you turn aside from that high and holy purpose and raise immaterial issues, that very moment you paralyze the arm of the Republic.

I believe that the power to confiscate property of rebels is a power incident to all war, and more particularly incident to this unnatural and unholy war which is being waged against us. You may confiscate your enemy's property in order to weaken him. It is one of the ordinary war-making powers, a power that may not be ignored without madness, folly, and crime. But, Mr. President, while I state this, what is the limit, the constitutional limit to your power of confiscation, even in time of rebellion? Why do you confiscate the property of rebels? Because by their disloyalty they have thrown off their allegiance to the Government, because they seek to annihilate the Constitution, to destroy the Union, and they have forfeited all their rights, and you are, therefore, perfectly justified in smiting them in their person or in their property; but while you have this acknowledged right, you have no right to injure either the person or the property of any loyal citizen in any State of the Union, whether that State has seceded or not. You have no right to destroy the property of a loyal citizen, because the Government owes him protection still.

He has not rebelled against her authority; he has not trampled under foot her Constitution; you are bound to protect his property, and his person.

But I desire to be understood. I supposed that the right to confiscate the property of rebels embraces all their property; and in relation to the peculiar character of southern slave property, I suppose we have a perfect right to confiscate the slaves of the rebels—all their slaves. At the same time such confiscation should be accompanied by a practical scheme of colonization. I should not be willing to go into an indiscriminate and unlimited scheme of emancipation which would prove alike a curse to master and slave, and embrace alike the loyal and the disloyal. This question of confiscation, however, I regard as a question of time—as a question of expediency. The rebellion can only be crushed out by an advance of your armies; no scheme of confiscation can very far precede the advance of the Army. If I am understood on this matter of coercion, I have accomplished my object.

Mr. President, I have spoken of the case of my colleague as it is presented to my mind. To me the two letters, in the language of the resolution of expulsion, contain evidence of disloyalty. I am satisfied of that. As they stand on the record at present, I have no doubt of it. I argued the case simply on the evidence before the Senate. There may have been explanations before the Judiciary Committee which to them may justify their report. There may be hereafter explanations presented to the Senate satisfactory to all. I will not anticipate or prejudice these explanations. I know at present nothing of them. I am compelled by an all-controlling sense of public danger and public duty to give my vote for the resolution of expulsion as the case now stands, and upon the evidence now before the Senate; in this vote I feel that I discharge my duty as a man, as a citizen, as a Senator.

Mr. BRIGHT next addressed the Senate. [His speech will be published in the Appendix.]

Mr. DAVIS obtained the floor:

Several SENATORS. Let us adjourn.

Mr. WILMOT. If the Senator from Kentucky will give way, I will move to adjourn.

Mr. BRIGHT. I hope not. I have waited here for two weeks to attend to this matter. I am necessarily compelled to leave this city on important private business. I have given way day after day and day after day. The Senator from Massachusetts asked me to give way that we might go into important executive business. I suppose the object partly was that he might prepare the valuable State paper that he has read against me here today. I ask that the Senate will vote upon this case now and dispose of it.

Mr. CHANDLER. Mr. President—

The VICE PRESIDENT. The Senator from Kentucky is entitled to the floor.

Mr. CHANDLER. I ask the Senator from Kentucky to give way while I read an answer to the speech of the Senator from Indiana, which he has just read, which I delivered immediately after that speech was delivered at the last session of Congress.

Mr. DAVIS. I cannot consent to do it.

The VICE PRESIDENT. The Senator does not yield, and he is entitled to the floor.

Mr. FESSENDEN. I will respectfully ask the Senator from Kentucky to listen to a suggestion before he proceeds, if the Senate will indulge me. I assure the Senator from Indiana that, so far as I am concerned, I have every disposition to oblige him and to go on and take the vote, but I happen to know there are several gentlemen on this side of the Chamber who wish to speak on both sides of the question, some on one side and some on the other; and that being the case, I think it would be unreasonable, at this late hour, to go further. I myself, not having made up my mind at all to make any observations on the subject, would like, if the Senator will permit me, to ask him a question which somewhat troubled my own mind. I do not wish him to answer it to-night, but to answer, after deliberation, when the Senate shall meet to-morrow, if he pleases, or he may answer at once if he likes, if he will permit me to put it. I do not think it would be fair and reasonable to put it and require the Senator from Indiana to answer it at once. If, however, the Senator is willing that I should put it, I will put it, and he may answer at such time as he pleases.

Mr. SUMNER. Before the question is taken I wish to make one remark.

Mr. FESSENDEN. I did not ask my friend from Kentucky to give way for a speech from somebody else—

Mr. SUMNER. I am not going to make a speech.

Mr. FESSENDEN. And therefore I think it unreasonable to give way to the Senator from Massachusetts. If anybody is entitled to the floor to address the Senate on the subject-matter before the Senate it is the Senator from Kentucky.

Mr. DAVIS. I insist upon my right, too.

The VICE PRESIDENT. The Senator insists on his right, and can claim the floor any moment he chooses so to do.

Mr. FESSENDEN. I merely asked the Senator from Kentucky, supposing the Senate would probably adjourn, and he would have no objection to adjourning, whether he would allow me to put a question to the Senator from Indiana that he may answer it to-morrow, if he likes.

Mr. DAVIS. Certainly, if I do not lose my right to the floor.

Mr. FESSENDEN. It is a simple question. The question which I desired to put to the Senator from Indiana is one that troubled my mind somewhat, and I desire an explanation. It is this: if he did not suppose that war, if it did not exist at that time, would shortly exist between the confederate States, so-called, and the United States, what occasion did he suppose Mr. Davis, as president of the confederate States, could have for fire-arms?

Mr. BRIGHT. I have said repeatedly that I have no recollection of ever having written this letter. I have no doubt when the letter was asked for, Mr. Lincoln said he wanted to go there to dispose of an invention in fire-arms. I understand Mr. Lincoln says I gave him a letter to Mr. Floyd in the month of December, which was some time before I gave him the letter to Mr. Davis, recommending his improvement in fire-arms, whatever it was; I really do not know what it was and never heard what it was. I went this morning to the War Department, and with the aid of the chief clerk searched its files for the purpose of ascertaining whether there was such a letter there. The chief clerk stated that if it was merely a letter of introduction, such a one as would be given in a case of that kind, the presumption was that Governor Floyd threw it in his basket and so it had been destroyed, or he might have it among his private papers. Mr. Lincoln, I understand, says I gave him a letter first recommending his fire-arm to Mr. Floyd. If it was such a valuable improvement, and was likely to be so serviceable in the destruction of human life, and I was in collusion with the southern States, I would hardly have recommended it first to Governor Floyd, then Secretary of War. I suppose I gave him a letter first to Mr. Floyd, and he, finding that like many of these Yankee inventions there was nothing in it, threw it overboard, and then Mr. Lincoln came and bored me for a second letter to Jefferson Davis, and I gave him that one. I have no doubt those are the facts.

Mr. SUMNER. Mr. President—

The VICE PRESIDENT. The Senator from Kentucky is entitled to the floor.

Mr. SUMNER. I believe I have the consent of that Senator to make a personal explanation, which will take just a minute.

Mr. DAVIS. I, of course, consent that any gentleman shall have an opportunity to make a personal explanation, if it does not forfeit my right to the floor.

The VICE PRESIDENT. It will not do so.

Mr. SUMNER. The Senator from Indiana alluded to the personal relations between himself and me, and he intimated, if he did not charge, that there had been some personal question or personal difference between us. Sir—

Mr. BRIGHT. Mr. President—

Mr. SUMNER. Excuse me.

Mr. BRIGHT. I intimated no such thing, sir.

Mr. SUMNER. Let me finish. Sir, that is not the fact. Since I have been a member of this body, now more than ten years, it has been my fortune to have taken part in each important question of public debate. On those occasions I have encountered, as the records will show, the opposition of that Senator and of his associates for the time in this body, now all of them engaged in open rebel-

lion. With that Senator, and with his associates on those occasions, I never had any personal question nor any personal difference. Therefore, when the Senator presumes to assert the fact, or to make the suggestion, he goes entirely beyond the record; and I could not allow this discussion to close to-night without interposing my positive denial. Sir, I have approached this question to-day free and unembarrassed from all personal prejudice. I have no feeling to that Senator more than I have to any other member of this body. There has been nothing in our past relations that could induce me to turn the scales by a feather's weight against him.

AMENDMENT OF THE RULES.

Mr. WADE. I believe I have the consent of the gentleman who has the floor to offer an amendment to the joint rules, which I ask may be ordered to lie on the table and be printed.

The VICE PRESIDENT. The Senator from Ohio asks the unanimous consent of the Senate, and with the consent of the Senator from Kentucky, to submit an amendment to the rules. The Chair hears no objection. The amendment will be received and ordered to be printed.

Mr. FESSENDEN. I will ask the Senator from Kentucky to give way to a motion to adjourn.

Mr. DAVIS. I do.

Mr. FESSENDEN. Then I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 21, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STROCKTON. The Journal of yesterday was read and approved.

THE TRENT AFFAIR.

The SPEAKER, by unanimous consent, laid before the House a message of the President of the United States, transmitting a correspondence between the minister of Prussia and the Secretary of State in relation to the capture and detention of certain citizens of the United States, passengers on board the British steamer Trent, by order of Captain Wilkes, of the United States Navy; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

POSTAL FINES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Postmaster General, transmitting a statement of the fines imposed upon postmasters during the fiscal year ending June 30, 1861; which was laid on the table, and ordered to be printed.

POST OFFICE ACCOUNTS.

The SPEAKER also laid before the House a communication from the Treasurer of the United States, transmitting a certified copy of the Treasurer's accounts of the receipts and disbursements for the service of the Post Office Department, for the fiscal year ending June 30, 1861; which was laid on the table, and ordered to be printed.

NEW MEMBER.

Mr. ROLLINS, of Missouri. I rise to a question of privilege. I desire to announce the presence of Hon. THOMAS L. PRICE, Representative elect for the fifth congressional district of Missouri, and to ask that he be sworn in.

Mr. PRICE thereupon came forward and took the usual oath to support the Constitution of the United States.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, their Secretary, informing the House that the Senate had passed a bill (H. R. No. 150) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1863, and additional appropriations for the year ending 30th June, 1862; with several amendments, in which he was directed to ask the concurrence of the House.

Also, that the Senate had passed a joint resolution, authorizing certain officers of the Navy to accept presents authorized by the Japanese Government; in which he was directed to ask the concurrence of the House.

Mr. STEVENS. I move to refer the appro-

priation bill, with the Senate amendments just sent in from the Senate, to the Committee of Ways and Means.

The motion was agreed to.

NEWSPAPER POSTAGE.

Mr. COLFAX. I call for the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports, and as unfinished business the bill of the House (No. 215) to regulate the carriage of printed matter outside the mails, reported from the Committee on the Post Office and Post Roads, the question being on its engrossment and third reading.

The bill was read. It provides that from and after April 1, 1862, it shall not be lawful for any railroad company, express company, common carrier, or other company or person, to carry for hire, or for sale or distribution, upon or along any post road or postal route on which the mails of the United States are now or shall be transported, any newspapers or periodicals not contained in the mails of the United States, and on which, if carried in such mails, postage would be chargeable by law; and that any person or corporation so offending shall forfeit and pay to the United States for each offense the sum of \$100, to be recovered by action of *qui tam*, one half for the use of the informer, and the other half for the use of the Post Office Department; but this prohibition shall not apply to any company, person, or agent who shall have at any time written authority from the Post Office Department to carry such matter outside of the United States mails upon specified routes; and such license may be granted by the Postmaster General, under regulations to be by him prescribed and conditioned upon the due observance thereof, providing thereby for the payment of rates of postage thereon not exceeding the rates now fixed by law; but this prohibition shall not apply to any mail route upon the seas to foreign countries; and any package carried otherwise than herein provided may be seized by any authorized agent or officer of the Post Office Department, and disposed of as the Postmaster General shall direct.

The second section authorizes the Postmaster General, in his discretion, to provide suitable stamps or labels to be used in carrying this law into effect, and to regulate the sale thereof, and to pay for the same out of any funds to the credit of the Post Office Department; and provides that any person using or aiding in the use of such stamps or labels otherwise than shall by such regulations be provided, shall be liable to the penalties prescribed in the first section of the act, and to be recovered in like manner; and it shall be the duty of postmasters to receive, hold, and dispose of such stamps and labels when and as required by the Postmaster General.

The third section repeals all acts and parts of acts in conflict with the foregoing provisions; and provides that nothing contained in the act shall be construed to interfere with the right of any traveler to have and take with him or her, for his or her own use, any book, pamphlet, magazine, or newspaper not intended for sale, distribution, or delivery to others.

Mr. COLFAX. Mr. Speaker, as this bill is an important one, and one that has been most severely criticised since its introduction by the most influential papers in the country, I trust that I may have the attention of the House while I explain its provisions, and defend it as far as I can from the attacks which have been made upon it.

I think I need not tell the House that this is an unpopular bill with the great metropolitan press of the country, and with the newsdealers who receive these papers comparatively free from all charge for carriage. Indeed I think the House is my debtor in one respect for the large quantity of reading matter which they have had furnished them of late, for since the introduction of this bill we have had numerous intelligent and able papers sent to all of us, free of charge, containing criticisms upon the bill marked for our perusal.

But, sir, conscientiously believing that the objects of the bill are right, and notwithstanding the vials of condemnation that have been poured out on me, I stand here to-day for the purpose of vindicating it from the attacks that have been made upon it, and for the purpose of vindicating the Committee on the Post Office and Post Roads in their action in reporting it.

Gladly, sir, would I record my vote to make the sutler "only a thing of the past;" but I do not find the way clear for the inauguration of a new system free from abuses. The enactment of this bill will, if it is faithfully executed, correct the evils of the present system of sutlerships. I am confident, Mr. President, we have so regulated the system in this bill that its enactment will cover our soldiers and their families with numberless blessings and benefits. But if we find after this act goes into effect that the evils and abuses that now glare upon us are not abated, then, before the close of the session, we will abolish sutlers altogether, and inaugurate the governmental policy of supplying small stores to the Army.

The VICE PRESIDENT. The question is on the amendment of the Senator from Massachusetts, to insert the list of articles named by him.

The amendment was agreed to.

Mr. WILSON, of Massachusetts. In order now to perfect the first section, I move to strike out the word "such," in the sixth line, and to insert instead of it the word "following;" and to strike out the word "as," in the sixth line, and insert "which;" and after the word "service," in the seventh line, to insert "to wit," so that the section will read: "A list or schedule of the following articles which may be sold by sutlers to officers and soldiers of the volunteer service, to wit," naming the articles.

The amendment was agreed to.

Mr. SHERMAN. I seem to me that the seventh section of the bill should be amended. It now provides, "that any sutler who shall violate any of the provisions of this act shall, upon conviction thereof, be dismissed." It is manifest that if this is an ordinary conviction by a trial—

Mr. WILSON, of Massachusetts. A court-martial.

Mr. SHERMAN. Then the words "by court-martial" ought to be inserted.

Mr. WILSON, of Massachusetts. It was supposed it must be done in that way, because a sutler is in the Army, and subject to military regulations.

Mr. SHERMAN. I move to insert the words "by court-martial" after the words "conviction thereof."

The amendment was agreed to.

Mr. GRIMES. I doubt the propriety of the last amendment. It seems to me that the commanding officer of a regiment, when he finds that this man, who is not connected with the regiment and is not subject to martial law and has never signed the Army regulations, has misbehaved, he ought to be permitted to throw him out of camp without giving him a court-martial.

Mr. SHERMAN. As the section reads, it is manifest that sutlers would have to be convicted by a jury; and it might require two years after the war was over before they could be convicted.

Mr. GRIMES. I move to amend the section by striking out the words "upon conviction thereof;" then it will leave power in the colonel of a regiment to dismiss an improper sutler *instantly*.

Mr. SHERMAN. I have no objection.

The VICE PRESIDENT. That change will be made, if there be no objection. ["Agreed."] The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. SHERMAN. Section seven is a most important provision of the bill, and it is yet imperfect. Suppose the colonel of a regiment is in collusion with the sutler and refuses to remove him, what then? There is no mode of trial pointed out in the bill. He must be convicted in some way. I submit to the chairman of the Military Committee whether the section ought not to be re-drawn, so as to meet that. We must provide some penalty for the violation of the provisions of the bill—a penalty that can be enforced promptly by martial law. It ought not to be left merely to the discretion of one officer, because the chairman of the Military Committee has already proven that several colonels have colluded with the sutlers.

Mr. WILSON, of Massachusetts. I suppose this section was intended to mean, and I think it must mean, that a sutler may be punished by court-martial. They have had a sutler tried by court-martial within a week in a regiment to my knowledge. Sutlers are liable to court-martial; it

is the only way to reach them. I am perfectly willing to put in the words "by court-martial." I think that will settle the whole case.

Mr. DOOLITTLE. Sutlers are expressly embraced within the articles of war, and are subject to trial by court-martial.

Mr. WILSON, of Massachusetts. I have no doubt on the subject, that on any complaint being made the sutler must be brought before a court-martial and tried. I know that in a Massachusetts regiment within a few days the sutler was brought up for allowing some soldiers to go into his tent and gamble in the night, and he was tried and convicted by court-martial.

Mr. SHERMAN. Then I will suggest this amendment. Make the section read:

Any sutler who shall violate any of the provisions of this act shall be dismissed by the colonel, or upon conviction thereof by a court-martial shall be dismissed from the service.

So as to provide against any collusion.

Mr. WILSON, of Massachusetts. Very well. The amendment was agreed to.

Mr. FOSTER. The third section of this bill provides for the manner in which sutlers shall be appointed. I am not by any means prepared to say that the mode pointed out in the section is not the best; but very lamentable cases of collusion between sutlers and commanders of regiments, who have the power of appointment, have been named to me, and I wish merely to call the attention of the chairman of the committee to the manner in which this bill provides for their appointment, and to inquire whether or not it has been so fully considered by him and the committee as to justify them in the conclusion that the best mode of appointment is that pointed out in the section. I wish to inquire if they have considered whether, on the whole, it would not be better if the appointment of sutler was made by some officer independent entirely of the regiment; whether the commander and all the officers and all the men would not then have a common interest that the sutler should do his duty? If the appointing power be in one class only belonging to the regiment, the other class not in the appointing power may have an interest adverse to the appointing power, and in this way there may be troubles. There have been troubles certainly, and they may again arise, which might be remedied if the power of appointment was elsewhere. I merely suggest it to the chairman of the committee, presuming that the subject has had his consideration; and if he is satisfied, on the whole, that this is the best mode of appointment, I shall not oppose it.

Mr. WILSON, of Massachusetts. I will say, in answer to the suggestion of the Senator from Connecticut, that the subject has been very carefully considered by the committee, and we have come to the conclusion that the best provision to make on the subject is to allow all the commissioned officers of a regiment, being thirty-three or thirty-four in a full regiment, to choose the sutler by ballot. We thought that better than to leave it to the colonel, or to any two or three officers. We thought it would not do, either, to leave these appointments to the Secretary of War, or to the Governors of the States at home. They would then be political appointments; there would be cases of favoritism, as there have been in a great many cases. There has been a vast deal of corruption growing out of it, and we thought the safest thing was to trust all the commissioned officers of a regiment; for a sutler could not very easily corrupt the whole of those officers.

Mr. FOSTER. I see that is the case in regard to regiments that are brigaded; but in unattached regiments the appointment is given to the colonel alone, as I read the bill.

Mr. WILSON, of Massachusetts. I think you are mistaken.

Mr. FOSTER. I think that is the provision in the bill.

Mr. WILSON, of Massachusetts. The Senator from Connecticut is certainly mistaken in that. In fixing the prices of the articles, the colonel, lieutenant colonel, major, and two captains act in unattached regiments;

The commanding officer of each unattached regiment shall, in like manner, cause a selection of a sutler to be made for each regiment, who shall be sole sutler of said regiment. Any vacancy in the office of sutler, from any cause, shall be filled in the same way as an original appointment.

Always to be filled by all the commissioned

officers of the regiment, and I think, certainly, it is the safest place to trust that power.

Mr. FOSTER. I see that the Senator is correct in that.

The VICE PRESIDENT. An amendment was proposed by the Senator from Kansas [Mr. LANE] to strike out the whole bill and insert a substitute. That proposition is now in order. The substitute was rejected.

The bill was ordered to be engrossed for a third reading; it was read the third time, and passed.

PROPOSED EXPULSION OF MR. BRIGHT.

The Senate resumed the consideration of the resolution submitted by Mr. WILKINSON, for the expulsion of Hon. Jesse D. BRIGHT.

Mr. SAULSBURY. Mr. President, I cannot permit this discussion to close without submitting some reflections which it naturally suggests. When a people are mad, their representatives are seldom wise. Amid the volcanic throes of revolution the voice of reason is too seldom heeded, and passion too often rules supreme. It is only when the storm has passed and the natural calm succeeded that impartial history records her judgment of the wisdom or folly, the madness or sobriety of our actions. The extravagances of the present will amaze the future; and even we who are actors in our nation's saddest drama will wonder at our delusions and our follies when time shall have soothed the passions and experience taught us wisdom. The philosophic student of current events will only glean from them the same lessons taught in the experience of the past, and future ages will be no more instructed by them than have we been by the warnings engraved on the ruins which strew the pathway of lost empires. Our amazement should therefore diminish and our prejudices somewhat abate when we reflect that those now temporarily clothed with power abuse its exercise, and in the name of justice and patriotism blindly stab the one and betray the other. They obey a fixed law of human action, and are scarcely more, however otherwise they seem, than unconscious instruments in working out the problem of events.

Of the same character as are many of the inexplicable phenomena of political and party action which we of late have constantly witnessed is the proposition now before the Senate—the proposition to expel the honorable Senator from Indiana. Reason, justice, common sense have nothing to do with it; for the reason that reason, justice, and common sense have well nigh fled the land. We have much of the reason of Robespierre, Marat, and Danton; none of the wisdom of Washington, Jefferson, and Franklin. The Mountain reigns, and woe to him who is not of the Mountain.

This debate illustrates what I have said. In studied phrase and sonorous sentence, the Senator from Massachusetts [Mr. SUMNER] has reminded us that we are engaged in one of the most solemn acts which this body can be called upon to perform. The sentence of a court in a capital case, he informs us, is hardly more solemn than the decree of the Senate in expelling a Senator; for the reason that, "though your judgment cannot take away life, it may take away all that gives value to life." Sir, it is natural to suppose that one thus feeling the solemnity of the act in which he was about to participate, would have felt bound to act as the impartial judge rather than as the vindictive prosecutor. But "nursing his wrath to keep it warm," under the color of a mock solemnity, and relying upon the impunity of official position, with the spirit of a Jeffreys, and in imitation of his example, he insults his supposed victim under the pretense of doing justice to the Senate. Oh! Justice, what wrongs have been perpetrated in thy name! Oh! Patriotism, what crimes are sought to be shielded by thee!

But, sir, I will not allow myself further to notice the speech of that Senator. Even the names of Catiline and Arnold seem less odious since they receive its censure, and an honest fame will shine more brightly from not receiving its praise. The Senator from Indiana, [Mr. LANE] with a delicacy doubtless appreciable by himself, however imperceptible by others, assigns a reason personal to himself for mingling in this debate, and animadverts upon a matter *dehors* the record—the opposition of his colleague to the coercive policy of this Administration; and the Senator from Ken-

lucky, scarcely deigning to notice the charge upon which the resolution is based, breaking loose from those restraining influences which, he says, too often govern "some gentlemen, able men—very able men too, men of enlarged patriotism, of eminent public and private virtue, that have pursued the profession of the law so long, either as practitioners, counselors, and solicitors, or as judges, that their minds become too contracted for enlarged statesmanship and the great principles of policy and moral justice upon which Governments ought to be administered, and upon which alone they can be wisely administered"—reviews the past political action, party associations, and social relations of the Senator arraigned, and finds in these sufficient cause for his expulsion. If others, Mr. President, cannot so conclude from such premises, the fault may not be in the argument, but in themselves, from the fact, as the Senator says, that they have "dwarfed their minds to such an extent that they cannot reason on the expansive principle and sentiment and consideration that ought to guide and to control the largest and wisest statesmanship." The Senator from New Hampshire, [Mr. CLARK,] generally cool—I had supposed always desirous to be just—forgetting that he is a judge, and assuming the guilt of the accused, turns upon him with indignant scowl and menacing gesture, and pronounces him traitor. "How," exclaims the Senator, "could we excuse ourselves to the country?" "How shall we justify ourselves to the honorable Senator from Virginia," [Mr. CARLILE?] The dread of the populace invoked, the supposed prejudices of a Senator appealed to, and the invocation and the appeal not made to, but by, a judge! Verily, the Mountain reigns, and woe to him that is not of the Mountain!

Mr. LANE, of Indiana. The gentleman will pardon me for interrupting him for a moment. I understood him to say that I had traveled out of the record to talk about the doctrine of coercion. If the gentleman will look a little further, he will find that the letter of the 7th of September, written to Mr. Fitch, was referred to the Judiciary Committee, and made one of the papers in this case; and upon that letter I based my argument.

Mr. SAULSBURY. I assure the Senator that I shall not do injustice to his argument. Before I get through I shall notice the letter to which he now alludes, and show that, although that letter was referred to the Judiciary Committee, it constitutes no part of the record in this case, even if it contains objectionable matter.

Mr. President, the administration of criminal justice, in no age and in no civilized country, can furnish an example of injustice so gross as that practiced towards the accused Senator in the Chamber of his peers. In no court, where the principles of the common law are recognized and administered, would any judge dare to pass sentence for matter foreign to the record, and no court, not barbarous itself, would allow even a public prosecutor to prejudice the cause of the accused by urging against him matters to which he had not been notified to plead. But in the opinion of some Senators, the public expects, demands the deed; and what modern patriot would not sacrifice justice and right to please the public?

Mr. President, there is a record in this case; and it is that record, the matters therein contained, that this Senate, acting in a judicial capacity, are now trying. It is as follows:

Whereas Hon. JESSE D. BRIGHT, heretofore on the 1st day of March, 1861, wrote a letter, of which the following is a copy:

WASHINGTON, March 1, 1861.

MY DEAR SIR: Allow me to introduce to your acquaintance my friend Thomas B. Lincoln, of Texas. He visits your capital, mainly to dispose of what he regards a great improvement in fire-arms. I recommend him to your favorable consideration as a gentleman of the first respectability, and reliable in every respect.

Very truly yours,

JESSE D. BRIGHT.

To His Excellency JEFFERSON DAVIS,
President of the Confederation of States.

And whereas we believe the said letter is evidence of disloyalty to the United States, and is calculated to give aid and comfort to the public enemies: Therefore,
Be it resolved, That the said JESSE D. BRIGHT is expelled from his seat in the Senate of the United States.

This is the charge and the whole charge upon which you have any right to act. To this the Senator from Indiana has been notified to plead, and to this only; and to this he has pleaded. The writing of the letter is admitted. The issue pre-

sented by the record is, was the writing of that letter "evidence of disloyalty" to the United States, and is that letter "calculated to give aid and comfort to the public enemies?" Of these you must be satisfied, or you cannot remove the Senator.

I shall not consume much of the time of the Senate in demonstrating the utter improbability of the affirmative of this issue being true. That has already been successfully done—to my mind at least—by the Senators from Pennsylvania, New York, and New Jersey, [Messrs. COWAN, HARRIS, and TEN Eyck.] When the passions of the present hour shall have passed away and been forgotten, the future readers of this debate will dwell with delight upon the impartial and able speeches of the Senators just alluded to as bright spots upon the darkened records of the times, evidencing the fact that the just man will think justly and act justly under any and all circumstances.

The meaning of this letter has been either grossly misunderstood or grossly perverted. It has been by some represented as an offer by Mr. BRIGHT to sell to Jefferson Davis an improved fire-arm, or as an invitation by him to Davis to buy an improved fire-arm. It is neither one nor the other. It is simply a note of introduction, nothing more and nothing less. When reduced to its elements, it is simply this: "Mr. Davis, I introduce to you my friend, Mr. Thomas B. Lincoln, of Texas. He is a gentleman of the first respectability, and reliable in every particular." If the latter words in the formal introduction are obnoxious to any objection, it is only to that of being in bad taste, and being surplusage; for in every such case the introduction to a stranger of one whom you represent as your friend implies that the party introduced, by reason of sustaining to you the relation of friend, is a gentleman, and a gentleman of respectability, and a gentleman reliable in every particular. Neither does the fact that the object of Lincoln's visit to Montgomery is stated in the letter change its character, or add to or diminish its criminality. It nowhere appears that Mr. BRIGHT recommended Lincoln to go; it nowhere appears that he recommended the character or quality of the fire-arm; and it nowhere appears that he recommended Davis to purchase it. Had Lincoln visited Davis, the omission in the letter of the words objected to would not have been of any effect, either good or bad. Lincoln could have stated the object of his visit, and would have stated the object of his visit, whether that object was or was not stated in the letter. In effect, the objectionable words amount to this, and nothing more: "Lincoln says he visits your capital to dispose of what he (not I) regards as an improved fire-arm."

The giving of a note of introduction which, I presume, be admitted not to be sufficient cause for expulsion. If you expel, therefore, you will do it because the writer of the note states what the bearer says is the object of his visit. I submit that expulsion for such cause is expulsion without cause, and wholly indefensible.

Again: look at the parties to this transaction and tell me can any fair-minded man believe that wrong could possibly be intended, and that injury could possibly result to this Government from writing that letter? Who was Jefferson Davis? A man bred to arms; a soldier, and an able soldier; one acquainted with the nature and character of every fire-arm used in military warfare, either in ancient or modern times. Can it reasonably be supposed that such a man, if he desired to purchase or grant a patent right for the manufacture of fire-arms, would be influenced by the judgment of JESSE D. BRIGHT, a civilian, even had such judgment been volunteered? And can you reasonably believe that Mr. BRIGHT was so vain as to suppose that an able and experienced soldier would purchase on his recommendation? It does not appear that any fire-arm of the pattern which Mr. Lincoln supposed an improvement has ever been made; but it does appear that he never represented its qualities to Mr. Davis, for this letter was found upon the person of Lincoln in the State of Ohio months after it was written. "My blood runs cold in my veins," says the Senator from Indiana, [Mr. LANE,] "when I reflect that some of our brave soldiers at Bull Run may have received their death from the use of this improved fire-arm." Thank Heaven, the Senator's blood

shall again course warmly through his veins. Not Brown's Jamaica ginger, nor other apothecary's stuff, shall be the restorative; but the simple reflection that it does not appear that any such fire-arm was ever used or made. But the spirit of the remark, and the object of the remark! Verily, the Mountain reigns, and woe to him that is not of the Mountain.

But, sir, other objections have been taken to this letter. Its address and its subscription, say some, are evidence of disloyalty. "My dear sir" is its commencement, "very truly yours" its conclusion, and "Jefferson Davis, president of the confederation of States," its address. Mr. President, can it be possible that the human understanding can be so clouded, and the human judgment so perverted, as to find in these expressions evidence of disloyalty to the United States? If there be criminality at all, it is in writing any kind of a letter to Jefferson Davis. If you admit that writing to him under any circumstances may be innocent, then there can be no criminality in addressing him, formally, as "my dear sir," as you would address any other person, nor in formally subscribing yourself "very truly, yours," as you would do in writing to any other person. Suppose, in writing to you, I subscribe myself "your most obedient and very humble servant," do I mean to acknowledge you as my master, and that with humility I will do your bidding whatever it may be? Or do I only use as a formal conclusion to my letters words commonly used in epistolary correspondence? You have occasion to write to a total stranger on matters of business, and you address him as "my dear sir;" does this prove that the man is in fact a person dear to you, that his purposes are your purposes, that his desires your desires, his hopes your hopes, his good your good, or does it only evidence that in addressing him you have complied with the customary usage of polite society?

But why address him as president of the confederation of States? Why did officers of the British Government address George Washington, the leader of our glorious revolutionary rebels whom they despised, and whom they would have hanged, as *General George Washington*. Because it was the title he claimed, and to which he was entitled by the commission of a rebel Congress. And why does General Halleck address Sterling Price as *General Sterling Price*? And why do you call Beauregard *General Beauregard*? Because it is the title they claim and by which they are commonly known, and not because either he or you recognize the validity of their commissions. But it is said that he made haste to acknowledge assumed titles; that he anticipated you in this particular; and for this you will expel him. Oh! the importance of a moment, according to the rules governing in the court of etiquette. Verily, the Mountain reigns, and woe to him that is not of the Mountain.

Mr. President, I will pursue this branch of the subject no farther. If it was not criminal to write to Jefferson Davis on the 1st day of last March under any circumstances, then the writing of this letter was not criminal. It may have been imprudent so far as the Senator himself is concerned as giving an opportunity to his enemies to impugn his motives and to defame his character; but if prudence under all circumstances is to be considered a test of loyalty, and imprudence a cause for expulsion, the country will be left, I apprehend, with but few faithful citizens, and the Senate with no members save the Senator from Massachusetts [Mr. SUMNER.]

Here, Mr. President, I ought perhaps to close, for here ends all that is pertinent to the question before the Senate. But the Senator from Kentucky, whose mind is not "too contracted for enlarged statesmanship," discussing this question, as he would have us believe, "on the expansive principle and sentiment and consideration that ought to guide and to control the largest and wisest statesmanship," has alluded to matters which, though foreign to the case, are calculated, if not properly noticed, to awaken a prejudice against the accused, and has advocated principles which, if recognized in practice, would destroy not only the freedom of private opinion and the independence of individual action, but would forever destroy the independence of the representative character, and make the fluctuating will of a majority of this body the

absolute rule of right and law of conscience and of duty to the majority. Verily the Mountain reigns, and woe to him that is not of the Mountain.

To determine the rule of expulsion, the Senator quotes from the Commentaries of Justice Story. Says that eminent jurist:

"It seems, therefore, to be settled by the Senate, upon full deliberation, that expulsion may be for any *misdeemeanor* which, though not punishable by statute, is inconsistent with the trust and duty of a Senator."

"There," says the Senator, "is the touchstone: any conduct, any opinions, any line of action as a Senator, which is inconsistent with the duty of a Senator, is a sufficient cause for his expulsion, and ought to be by the rules of reason and common sense." Justice Story says "any misdemeanor," but the Senator reasoning, I suppose, "on the expansive principle and sentiment and consideration that ought to guide and to control the largest and the wisest statesmanship," enlarges the rule—

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

Mr. SAULSBURY. Certainly.

Mr. DAVIS. The gentleman garbles Justice Story. He does not limit the cause of expulsion as the gentleman makes him limit it in his remarks. He says, in plain and distinct terms, that anything which renders a member of a deliberative body unfit to act as a member of that body, or that may be adjudged to be so by the body itself, is sufficient cause for his removal by expulsion. I do not quote his words; but that is the idea.

Mr. SAULSBURY. Mr. President, I took the extract from the printed speech of the Senator himself. If there is any garbling of it, it is in the speech.

Mr. DAVIS. Will the gentleman allow me a moment again?

Mr. SAULSBURY. I do not mean to misrepresent the Senator; I took it from the printed speech.

Mr. DAVIS. I did quote and rely upon that authority as Judge Story has written it, and as it has been printed. I do not know how I am reported in the papers; I have not revised or corrected any report of my sentiments, or of my argument; but I say that I read the whole passage from Story's Commentaries upon the Constitution, and I relied upon the whole passage as it is printed. If the gentleman so states it, I agree to it; but the gentleman's argument only states a part of the premises upon which Judge Story predicates the right of the Senate to expel a member.

Mr. SAULSBURY. The point contained in the conclusion to which Judge Story comes, is that any misdemeanor which, in the judgment of the Senate, although it may not be punishable by a statute, renders a Senator unfit for his trust, may be a cause for expulsion; but the Senator does lay down in precise language what I have quoted from his speech. The rule as laid down by him is, that any conduct, any opinion, any line of action which is inconsistent with the duty of a Senator, is ground for his expulsion. Such, at least, I understood his argument to be—I do not wish to misrepresent him.

Mr. DAVIS. I reassert that proposition now.

Mr. SAULSBURY. Then that is the proposition I am going to discuss. I say, then, that this is an enlargement of the rule so as to embrace any conduct, any opinions, any line of action; and, under this extension, he discourses not only in reference to the conduct, opinions, and line of action of the Senator accused, but also in reference to his conduct as a member of a political party of which the accuser was never a member, and in reference to his social relations, in which the accuser was not embraced. He animadverts upon the disruption of the Democratic convention at Charleston, upbraids the Senator from Indiana with his personal and social relations with gentlemen now in the service of the confederate States, and lectures him for not supporting Mr. Douglas for the President. Verily we have fallen upon strange times, when a supporter of John Bell can accuse a supporter of John C. Breckinridge with disloyalty, as evidenced by that support.

Mr. DAVIS. Mr. President—

Mr. SAULSBURY. I hope the Senator will allow me to get through, and then I shall be happy to be corrected if I have done him any injustice.

Mr. DAVIS. I am sorry that the gentleman misrepresents me so very much as to make it necessary for me—

The PRESIDING OFFICER, (Mr. DOOLITTLE in the chair.) The Senator from Delaware is entitled to the floor, and unless he yields it the Senator from Kentucky is not in order.

Mr. SAULSBURY. Since I have been a member of the Senate I have never, to the best of my knowledge, said a discourteous word to any member on this floor. I would scorn to do it. I have never misrepresented anybody, and if I quote from the speeches of Senators, or if I animadvert in a becoming spirit and in a proper manner upon the line of their argument, it certainly is legitimate, and is no cause for any irritation on their part.

But, says the Senator from Kentucky, the Senator from Indiana has declared in a subsequent letter that he was and is opposed to the coercive policy of the Administration; and as the Senator dwelt upon this point—spoke upon it at length—I presume it is not unfair to say that for this, among other reasons, he advocates his expulsion. Here I will notice the remark of the Senator from Indiana with regard to that letter, and state my position with respect to it. That letter, although it was referred to the Committee on the Judiciary upon the application of the Senator from Indiana, [Mr. BRIGGS] is no part of the record in this case; and if it contained distinct, substantive objectionable matter, you would have no right to consider it on the trial of this record. In years to come, when we have passed from these Halls and the men of a future day shall read the record of this proceeding and of your judgment in this case, upon what will they say your judgment was founded? Will they say it was founded upon a letter written to Mr. Fitch or somebody else months subsequent to the time at which the letter set out in the resolution purports to have been written; or will they take up your record and say that the only letter referred to in that record was a letter written to Jefferson Davis? In this case where there is a record, no Senator, in my humble judgment, has a right to travel out of the record and say that a letter was subsequently written which is not embraced in the record you are trying.

But, sir, the part objected to in that letter is not, in fact, denied by the Senator from Indiana; and I say, although it may subject me—among those who have neither the justice nor the capacity to judge correctly—to an imputation of a want of patriotism, that the Senator from Indiana, and the thousands and tens of thousands in the loyal States who think with him, can, if my interpretation of his language be correct, stand, and proudly stand, upon it at the present, and challenge the judgment of enlightened men now, and the judgment of impartial history hereafter. What does the Senator say? In effect, that "I was and am opposed to the whole coercive policy of this Administration." He speaks of a principle, not of a bill; he speaks of a policy, the aggregate of principles, the result of principles, not of the details of legislation.

Mr. President, when the political troubles in which the nation was involved culminated in the formal act of the secession of one State, which was followed by the secession of five or six others, we all know that there were two policies advocated for the restoration of the Union and the vindication of the national authority. One was the policy of compromise, which ought to be acceptable to all, and the other was the application of military force to coerce obedience.

The friends of the former policy were, of course, opposed to the latter, and the advocates of the latter were opposed to the former. The Senator from Indiana believed as I believed, and as I now believe, as a large majority of the people in what are now termed the loyal States believed, as nineteen twentieths of the people in the southern States believed, as the fifty-three thousand petitioners from the city of New York believed, as the eighteen thousand petitioners from the city of Boston believed, and the thousands and tens and hundreds of thousands of petitioners from every part of the country believed, as three fourths of all the officers and men who are now fighting your battles believed, that the policy of compromise was right and proper; and he and they all believed that the policy of coercion was wrong. If you would expel him for that belief, why not expel all of us who this day constitute nearly one third of this Senate, who did

believe and who now believe that the policy of compromise would have been more effective and more speedy in restoring the Union made by your fathers, and in causing its flag to float gloriously over every foot of your territory, than the policy of coercion? Sir, it is no treason to say that the angel of peace has more charms for me, that her whispers are more pleasant to my ears than the ravings of the demon of discord and the demon of war.

The Senator from Indiana was speaking in reference to a policy, a principle, not in reference to the details of legislation. If you mean to expel a Senator because he was opposed to coercion, why not ununiform your officers and discharge your soldiers who were opposed to coercion? If this be disloyalty, why not incarcerate in your modern bastilles the majority of the people, even in the free States, who believed the same thing?

Sir, when impartial history shall record her judgment in reference to the men and measures of the present day, the friends of compromise and the opponents of the exercise of coercion will be, if they are not now, which I believe, in the light of surrounding circumstances, they are, fully vindicated. They had been instructed by the teachings of history, and sought to impress their countrymen with the truths she taught. Sir, let the voice of party be stilled and the strifes of faction cease, while we listen to the voice of philosophy syllabled by the muse of history. Says Macaulay:

"We know of no great revolution which might not have been prevented by compromise early and graciously made. Firmness is a great virtue in public affairs, but it has its proper sphere. Conspiracies and insurrections in which small minorities are engaged; the outbreaks of popular violence unconnected with any extensive project or any durable principle, are best repressed by vigor and decision. To shrink from them is to make them formidable. But no wise ruler will confound the prevailing taint with the slight local irritation. No wise ruler will treat the deeply-seated discontents of a great party as he treats the fury of a mob which destroys mills and power-looms. The neglect of this distinction has been fatal even to Governments strong in the power of the sword."

The neglect of this distinction, Mr. President, cost the British Government the loss of thirteen colonies; the neglect of this distinction has cost us, for the present, at least, the loss of eleven States, and plunged us into a remorseless civil war greater than this earth has ever witnessed; and I fervently pray that the neglect of this distinction may not finally cost us the eternal dismemberment of the Federal Union, and the permanent, as it has the present, loss of constitutional civil liberty itself.

Mr. President, those clothed with the executive and legislative power of this Government, although representing only a minority of the people, refused to be instructed by the lessons of history, and to be governed by the wish of the majority of the nation. They failed or refused to recognize the proportions of the nation's discontent, or the extent of the rebellion which had been organized. They treated it as they would have treated the "fury of a mob which destroys mills and power-looms," and even to this day speak of it as an insurrection in the insurgent States. When, oh! when, shall we learn wisdom, that we may learn to act wisely?

Mr. President, I know that it is fashionable in some localities to call the men who entertain these opinions secessionists and disunionists. Persecuted and hounded by a venal press that dare not utter a noble sentiment or express an independent thought, for fear the modern censor shall fulminate his edict of suppression; persecuted and defamed by the corrupt cormorants who devour the substance of the people, plunder the Treasury, and destroy the credit of the nation; some of them, without cause, without charge, without hearing, have been incarcerated, and others threatened with incarceration in American bastilles, more loathsome than those which disgrace the barbarous ages of Spain. But, sir, while I have a seat on this floor, a loyal Senator from a loyal State, notwithstanding the foul calumny of Simon Cameron in his annual report, that that State was at one time threatened with revolt, I will act and speak with the freedom that becomes an American Senator, whether detraction or bastille be my fate—

"Stone walls do not a prison make,
Nor iron bars a cage;
Minds innocent and quiet take
These for an hermitage."

But, sir, when did opposition to coercion be-

come disloyalty, and if not disloyalty at one time but so at another, who is to determine the period of its commencement? It seems, sir, that on the 10th day of April last even Mr. Seward was unfavorable to coercion, and stated such to be the position of the President. In a letter of that date to Mr. Adams, which I believe has been already referred to in this debate, he says:

"For these reasons he [the President] would not be disposed to reject a cardinal dogma of theirs, [the seceding States], namely, that the Federal Government could not reduce the seceding States to obedience by conquest even, although he were disposed to question that proposition. But in fact, the President willingly accepts it as true. Only an imperial or despotic government could subjugate thoroughly disaffected and insurrectionary members of the State. This Federal republican system of ours is of all forms of government the very one which is most unfitted for such a labor. Happily, however, this is only an imaginary defect. The system has within itself adequate, peaceful, conservative, and recuperative forces. Firmness on the part of the Government in maintaining and preserving the public institutions and property, and in executing the laws where authority can be exercised without waging war, combined with such measures of justice, moderation, and forbearance as will disarm reasoning opposition, will be sufficient to secure the public safety until returning reflection concurring with the fearful experience of social evils; the inevitable fruits of faction, shall bring the recalcitrant members cheerfully back into the family which, after all, must prove their best and happiest, as it undeniably is their most natural home. The Constitution of the United States provides for that return by authorizing Congress, on application to be made by a certain majority of the States, to assemble a national convention, in which the organic law can, if it be needed, be revised so as to remove all real obstacles to a reunion, so suitable to the habits of the people, and so eminently conducive to the common safety and welfare. Keeping that remedy steadily in view, the President, on the one hand, will not suffer the Federal authority to fall into abeyance, nor will he, on the other, aggravate existing evils by attempts at coercion which must assume the form of direct war against any of the revolutionary States."

These, Mr. President, are noble utterances of a man who in his day has uttered as noble and as mean sentiments as ever fell from human lips. This extract vindicates the wisdom of the policy of non-coercion; and when I speak of the policy of non-coercion I speak not of your legislation, but of the principle of coercion as a means of settling our national differences as an original question. It is in that light that I regard the declaration of the Senator from Indiana, and it is in that light and in that view of the question that I speak of my own views. But, sir, this extract from Mr. Seward not only vindicates the wisdom of the policy of non-coercion advocated by Mr. BRIGHT but shows that he well might have believed on the 1st of March last that there would be no war, since Mr. Seward on the 10th of April believed the same thing. Sir, it vindicates another thing—the wisdom of the action of those of us at the last regular session of Congress who advocated the adoption of the compromise measures offered by the then Senator from Kentucky, [MR. CRITTENDEN,] because it was to amendments of the Constitution that Mr. Seward looked on the 10th of April last for a removal of "all real obstacles to a reunion so suitable to the habits of the people, and so eminently conducive to the common safety and welfare."

At that session, while vainly striving with others for the adoption of those measures, I remarked in my place in the Senate that—

"If any Gibbon should hereafter write the decline and fall of the American Republic, he would date its fall from the rejection by the Senate of the propositions submitted by the Senator from Kentucky."

I believed so then, and I believe so now. I never shall forget, Mr. President, how my heart bounded for joy when I thought I saw a ray of hope for their adoption in the fact that a Republican Senator now on this floor came to me and requested that I should inquire of Mr. Toombs, who was on the eve of his departure for Georgia to take a seat in the convention of that State which was to determine the momentous question whether she should continue a member of the Union or withdraw from it, whether if the Crittenden propositions were adopted Georgia would remain in the Union. Said Mr. Toombs:

"Tell him frankly for me that if those resolutions are adopted by the vote of any respectable number of Republican Senators, evidencing their good faith to advocate their ratification by their people, Georgia will not secede. This is the position I assumed before the people of Georgia. I told them that if the party in power gave evidence of an intention to preserve our rights in the Union, we were bound to wait until their people could act."

I communicated the answer. The substitute of the Senator from New Hampshire [MR. CLARK] was subsequently adopted, and from that day to

this the darkness and the tempest and storm have thickened, until thousands like myself, as good and as true Union men as you, sir, though you may question our motives, have not only despaired but are without hope in the future.

Mr. President, a nation's cry for peace has been disregarded. When State after State, in madness and folly, assumed to withdraw from the Union, wise men, good men, the sovereign American people, sent their delegates to this city, and in a peace congress, after agreeing to such propositions as best they might, presented them to you for approval and asked for the blessings of peace. You disregarded their petition, and confounding "the prevailing taint with the slight local irritation," you determined to "treat the deeply-seated discontents of a great party as you would treat the fury of a mob which destroys mills and power-looms." Those who have dissented from the wisdom of your policy, instead of being regarded, as they profess to be, as much desirous as you for the preservation of the Union and Constitution of their fathers, have been the objects of your distrust and reproach. Spurning their counsels simply because you are accidentally in the majority in this body, you demand acquiescence in your views of public policy, under the penalty of the brand of disloyalty, to be followed by that of expulsion. To me neither the brand nor the penalty, should they ever be presented, will have any terror.

Because I believed that this difficulty could have been peaceably adjusted, because my State so believed, because a vast majority of the people of the United States so believed, no man has a right to impugn my motives, or to say that I am less loyal than myself. Sir, if I know my heart to-day, if by so doing the Union of our fathers could be restored, and peace again come to a distracted country, I would take my departure from the Senate Chamber, and with my little family, bidding farewell to the graves of my fathers, I would go into exile beyond the waters never to return again. But because I may differ from you in policy am I less loyal than you?

Thus much have I said because of the speech of the Senator from Kentucky, [MR. DAVIS.] His rule for the expulsion of a Senator is as I have stated; and if in this I do him any injustice, I shall be glad to make the correction in my printed remarks. His rule is, "any conduct, any opinions, any line of action, as a Senator, which is inconsistent with the duty of a Senator," to determine which there can necessarily be but one criterion, the conformity of such conduct, opinions, and line of action to the views of the party in power.

Mr. President, at the extra session of Congress I advocated a policy which I then believed, and which I now believe, would have saved this Union with the Constitution, if any policy could. I advocated the raising of an army of two hundred thousand men, which would be sufficient for defense from invasion, if any should be attempted, which I did not believe; the amendment of the Constitution upon the basis of the Crittenden compromise measures; and the proclamation by the President and Congress that their only objects were the preservation of the Union and the constitutional rights of the people everywhere. The Senator from Indiana approved this policy. Had it been adopted, I firmly believe there would have been more Union men in the seceded States to-day than disunionists. That policy was rejected by a majority of this body, who had the constitutional right to reject it; but who shall say that their love of country was stronger, or their desire to preserve the Union greater than mine? Who has made you my judge? At the present session of Congress I proposed a joint resolution, appointing commissioners to meet a like number to be appointed by the people of the seceding States, "to consult for the preservation of the Union, the maintenance of the Constitution." Their reception was objected to by the Senator from Massachusetts, [MR. SUMNER,] and they lie upon your table. He objected to them, and so did the Charleston Mercury, which declared "that it was a proposition more fatal to the South than cannon or ball, because diplomacy might accomplish what bullets could not." But who shall say that either that Senator or the Mercury is more attached to the Union or the Constitution than those who favor the adoption of the proposition? A majority of this body would agree, no doubt, with the Senator and the Mercury in opposition

to those resolutions; but because they disagree with me in opinion shall I not be free to entertain and act upon my own? The Senator from Kentucky condemns the policy of emancipating or arming the slaves in this conflict. I am not sure that a majority of the dominant party would not agree with the Senator from Iowa, [MR. HARLAN,] rather than with him. When his opinions are practically brought to the "touchstone" which he has discovered, he possibly may be led to review the opinions he has expressed in reference to the expulsion of the Senator from Indiana.

But the Senator from Kentucky objects that the Senator from Indiana neither votes for the measures proposed by the Administration for the suppression of the rebellion nor proposes any of his own to accomplish that purpose. Is that the issue you are trying, or is it that presented by the record before us? Have you notified the Senator from Indiana to come prepared to defend every vote he has given, or to assign reasons why he has not proposed measures for your adoption? Had you done so he well might have pleaded to your jurisdiction and denied your authority. Should this Senate, acting upon the only matter legitimately before it—the record in the case—honestly come to the conclusion that it discloses matter which proves his disloyalty, his treason, and vote to expel him, well and truly and bitterly may he regret it; but if, through passion and prejudice, they should so vote from considerations such as those presented by the Senator from Kentucky and some others who have mingled in the debate, he can proudly retire from this Chamber, and returning to his own Indiana, in the retirement of private life, reflect that—

"More true joy Marcellus exiled feels
Than Cæsar with a senate at his heels."

Mr. President, we are in the midst of civil war. Those having the power to determine the policy of the Government have so far rejected every proposition for a peaceable adjustment, and have resolved upon a continuance of the policy of coercion. You have the right to continue that policy within the limits of the Constitution. The question is not one of right, but of expediency. While I may distrust your ability to guide the ship of State amid the storms that beset her, while you act within the limits and in accordance with the spirit and meaning of the Constitution I shall wish you speedy and glorious success. I shall offer no factious opposition to your measures. Those of them which my judgment approves I shall vote for; those which involve only questions of policy, from which I dissent, but which are approved by the majority, who are responsible for the proper prosecution of the war, I shall not in the future, as I have not in the past, oppose, but leave the responsibility for their adoption where it properly belongs. Those of them which I honestly believe are violative of the Constitution of my country, I will oppose by all honorable means, and to the utmost extent of my power. If you cannot carry on this war in accordance with the Constitution, which was made for all times, both of war and peace, you have no right to carry it on at all. I will vote for any honorable proposition for the peaceable adjustment of our national troubles by which the Union may be maintained and the Constitution preserved. I have never yet seen the day when I would have voted for the surrendering of the one or the infraction of the other. How long it will be before the lovers of constitutional liberty will be compelled to weigh their devotion to the Union, with its blessings, in one scale, and that liberty, with its indispensable advantages, in the other, it will be for you to determine.

In my place in the Senate and at my home and everywhere I go as a private citizen, I will make continual claim on my own behalf, on behalf of my children and my fellow-countrymen, to that priceless liberty, with all its constitutional safeguards, which I and they have inherited from our fathers; and under no circumstances will I ever abate one particle of opposition to those unconstitutional measures adopted under the tyrant's plea of necessity, or which may hereafter be so adopted. Never has there been a Government in the administration of which its Constitution has been so often, so violently, and so causelessly infringed, in which civil liberty has been preserved. It is this alarms me, and it is this alarms the conservative everywhere. In the language of a celebrated jurist of the present day, himself a son of

one of the framers of the Constitution, and a devoted friend of the Union, Chancellor S. S. Nicholas, of Kentucky, whose opinions I oppose to those of the Senator from that State. [Mr. DAVIS:]

"The following powers are given exclusively to Congress:

- "1. To increase the Army.
- "2. To increase the Navy.
- "3. To appropriate the nation's money.
- "4. To regulate commerce with foreign nations.
- "5. To regulate commerce between the States.
- "6. To contract debt on behalf of the nation.
- "7. To suspend the writ of *habeas corpus*."

"The following powers are denied to both Congress and the President:

- "1. To proclaim martial law.
- "2. To arrest without a legal warrant.
- "3. Imprisonment or other punishment without conviction upon legal trial.
- "4. Punishment under *ex post facto* or non-existing law.
- "5. The introduction of *lettres de cachet*, bastilles, and the midnight secret proceedings of the Inquisition.
- "6. The interdiction of exports.
- "7. The favoring of some ports to the prejudice of others.
- "8. The regulation of the commerce of a State within its own bounds.
- "9. To impair the freedom of speech and the press.
- "10. To infringe the people's right to keep and bear arms.
- "11. To make unreasonable searches and seizures.
- "12. To prohibit emigration or require a passport.
- "13. To dismiss the police of a city in an unproclaimed State, and appoint others in their place."

Here are twenty important laws or constitutional provisions which the President has violated, according to this learned authority; and we all know that since the commencement of this struggle no man has written or spoken more earnestly for the preservation of the Union than has Chancellor Nicholas, of Kentucky; but, being one of those who believe that the Union can only be preserved by preserving the Constitution, he considers that he has a right to enunciate these opinions without his loyalty being questioned. That is all that I have been claiming for myself; that is all that I ask to be meted out for the Senator from Indiana. Chancellor Nicholas says:

"Here are twenty important laws or constitutional provisions which he [the President] has grossly, willfully violated. His usurpations are so extensive that it would narrow the inquiry to ask what law or constitutional provision he has not violated, rather than to ask which he has violated or usurped upon. The rights, the safeguards he has taken away are greater, far greater, than those he has left."

Now, I ask you, Senators, if the Senator from Indiana has ever undertaken to utter in his place here, or to write or to publish such an attack as this upon the President of the United States, or upon the exercise of authority by the President of the United States? Never. If gentlemen who have preceded me had referred to the course of the Senator from Indiana more correctly; if they had taken the trouble to examine our records rather than to take it for granted that he has opposed everything, in my judgment, they would have found that, but on three or four occasions, has he opened his mouth against any bill which the majority of this body has asked the adoption of. He has availed himself simply of the right which every Senator has—if his judgment does not approve of an act, not to offer you factious opposition, but to record a silent vote, and let you be unobstructed in your legislation. Had he risen in his place, and announced the principles which Chancellor Nicholas has announced and published to the country, I ask you if we should not have heard them reiterated over and over again in this debate. Would you have said that these were causes for expulsion, and would you have voted for his expulsion because he had uttered these sentiments? And yet no man in Kentucky, no man in the United States, that I ever heard of, questions the loyalty, the patriotism, the devotion of Chancellor Nicholas, not only to the Union, but to the Constitution of his country.

In the language of the same distinguished writer:

"The nation is now afflicted with two terrible wars going on together. The war against the Union and the war against the Constitution are being waged simultaneously. Each wears a threatening aspect of great peril. Which presents the greater peril it would be difficult to decide. Which, if successful, will be most calamitous, men of intelligence will have no difficulty in deciding, even though they knew that a large majority of our countrymen might decide differently. So in determining which of the two is the worst treason—the war against the Union or the war against the Constitution—men will differ in the same way. A patriot can side with neither war, but must resist them both. He must do this, even though he brings upon himself an imputation from the ignorant that he thereby favors one of these wars. The patriotism is of little worth which cannot bide the scathing of such imputations."

Senators, do not add to this long list of usurp-

ations by expelling a Senator because he has opposed them.

Mr. President, in the heat and ardor of the moment I may, perhaps, have spoken imprudently for myself. I know that there is a spirit abroad in the land which assumes to sit in judgment, not only upon the actions, but upon the motives of men. I know that as good, as true, and as loyal men as breathe the air of heaven this day rest under the foul suspicion, the unjust suspicion of disloyalty, because they dare to utter one word in defense of what they consider an imperiled Constitution. Every person who edits a ten by twelve newspaper, the circulation of which has not been stopped by your Postmaster General, dares to question the loyalty and the love of country of men who have done, and who would do more for their country, under all circumstances, than the whole of them combined. But, sir, though I may have spoken imprudently, I have spoken honestly; for I am one of those who believe that the expulsion of the Senator from Indiana, instead of strengthening the friends of Union, will only weaken them; not, perhaps, to any very great extent, but certainly to some extent. Every oppressive act you do, every unjust act you do, every unjust suspicion that you cast upon an honest man, but shows your intolerance and weakens your cause. If you would be successful in this great battle which you are fighting for the preservation of the Union, be just and fear not. Let all the ends you aim at be your country's, your God's, and truth's, and you may possibly succeed, though it may be that years will pass away before you succeed. But if intolerance is to rule the hour; if the motives of men are to be impugned; if Senators are to be expelled; if opprobrium is to be cast upon everybody who dares to differ in opinion from you, or to question the wisdom of your policy, it may be submitted to for a time; but an honest people, meaning to be free, and to assert their inalienable rights to think as they please, and to express their opinions and to act as free men should act, will not long tolerate such a course of conduct; and in your effort to preserve the Union you will only the more surely hasten its destruction.

Senators, pause, I beseech you; pause before you do this deed. You stand upon a volcano whose fires may in a moment belch forth to lay waste and to destroy. Already they rage in fury beneath your feet. The mountain smokes; the earth trembles. A general, without authority of law, but in defiance of law, makes forced levies upon those obnoxious to his censure for the support of whom he pleases. Extra and unconstitutional oaths are exacted by the command of a military despot. The secret order, it is reported, goes forth to arm the slave, if necessary, for the destruction of his master. The marauder stalks abroad to pillage, burn, and destroy. The judge is imprisoned in his house, and his independence attempted to be destroyed by illegally withholding his pay. Your peaceful citizens rot in bastilles, and their cries are refused to be heard.

In the midst of general lawlessness be ye, the law makers of the land, the guardians of the law, the defenders of an imperiled Constitution. Do not that which may return to plague you in your own persons; lest when, in imitation of the example which history furnishes, and in imitation of your own, a lawless soldiery, under the guide of some ambitious usurper, shall drive you from these Halls, because "the Lord has no further need of your services;" there may be found those who shall "laugh at your calamity, and mock when your fear cometh." What sound is that I hear? It is a voice at the other end of the Capitol, and in the hall of legislation, proclaiming that the President should usurp dictatorial powers, not to preserve, but to destroy the Constitution. It reverberates in this Chamber. "By Heaven," exclaims an experienced and leading Senator, "if I was your President, and you would not give me the necessary authority, I would usurp it, and you might help yourselves." The crater forms. Senators, pause; preserve the jewel of constitutional liberty, though the casket may be broken.

Mr. DAVIS. I should like to have the opportunity of making a very short explanation. I have occupied a great deal more time on this subject than I should have done; and I am sorry now to feel it necessary to make a short explanation.

It is my purpose, Mr. President, and it is my

desire, to treat every gentleman who is a member of this body; or who is not a member of this body, with perfect decorum and courtesy; but the honorable gentleman who has just taken his seat, and the gentleman from California, [Mr. LATHAM,] who addressed the Senate a few days ago, fell into a misconception of a position that I assumed in my argument. Both of them stated, if I understand aright, that I had assumed and argued that a Senator might be expelled from this body because of his opinions alone. I never entertained any such opinion or principle as that. I never intended so to express myself in the extemporaneous speech which I made, and according to my recollection, I did not so express myself. But this position I then assumed, and this position I now maintain: that where a Senator's opinions are incompatible with the proper performance of his duty as a member of the Senate, and he conforms his action to his opinions, both together constitute a very sufficient cause for his expulsion.

When I asked the courtesy of the honorable gentleman to make an explanation, he was quoting the authority of Story in his Commentaries on the Constitution, as setting forth a position which I had assumed. He quoted this much from Story; that the party proceeded against need not have committed a misdemeanor within the body from which it was sought to expel him; but if he committed a misdemeanor out of the body, that should be a sufficient cause also for his expulsion. Mr. President, that is only a portion of the ground that Story lays down, only a portion of the ground which I read from him, and only a portion of the ground on which I relied. You, sir, and the Senate, will recollect distinctly that I assumed that, in order to authorize the Senate to expel a member, it was not necessary that that member should have committed any offense defined by law, either by common law or by statute law. You will recollect that I read at some considerable length from the authority of Mr. Adams's report in the case of Smith, and I also read at some considerable length from the report in the case of Blount, a member of the Senate from the State of Tennessee, who was expelled from this body; and I also read a collation of authorities from the British Houses of Parliament, as collated by Justice Story himself, that established this position: that it was a matter of judgment and discretion, and rested wholly in the judgment and discretion of the body which was proceeding against one of its members for expulsion, whether the cause was sufficient or insufficient, and that all the authorities concurred in laying down the rule that where the principles and the conduct of the party proceeded against were such as to render it improper and unsafe that he should continue a member of the body, and his peers so considered the case as made out against him, they had the power, and it was their duty, to expel him. I do not quote the exact words, but state the substance.

I furthermore quoted from the Senator from Indiana's letter of September last, the 7th of September if I recollect right, in which he avowed in distinct and most emphatic language—I do not recollect the verbiage—his opposition to the principle and to the measures of coercion that had then been adopted by the Government of the United States.

On the 4th of July last, Congress commenced its extra session. What was the condition of the country then, in a word or two? The confederates had a larger army probably assembled and set in the field in the State of Virginia and in the immediate neighborhood of this capital than had ever before been assembled upon the continent of America. They had assumed this position: "we have gone out of the Union; we constitute an independent and an alien government to that of the United States; we prefer to be let alone and that our independence shall be peaceably recognized; but unless it is thus recognized we will make war against the Government of the United States to the last extremity to sustain our independence." Now, sir, here is the pith of this matter, and in my judgment the most serious part of it. The gentleman from Indiana came here a member of the Senate at the extra session of Congress. What alternative was then left to Congress and to the Government of the United States? It was to raise men and money, and by hostile armies to meet the insurgents in the field at the head of their formidable power. Suppose we had not done so, where

now would have been Beauregard, and where would have been Jeff Davis? In a few weeks he would have had possession of this capital, and at this day probably Davis's mock government would have been sitting in its farcical deliberations in the very Halls that are now occupied by the two Houses of Congress.

The gentleman from Indiana and every member of this body swears to support the Constitution of the United States. How is he, and how is the eloquent and vehement gentleman from Delaware, who has just taken his seat, to support the Constitution of the United States? Was not the purpose of Jeff Davis, and of his confederate government, to overthrow the Constitution of the United States, and the Government of the United States? How could the gentleman from Indiana contribute any part towards preventing such a catastrophe as that? What it was right and proper and constitutional for him to do, it would have been right and proper and constitutional for every member of the Senate to have done at that time. Well, suppose all had acted as he acted? I did not know his record, and I had not examined it particularly; but I understand this to be his record: that every measure proposed at the extra session of Congress to raise money, to borrow money, to issue Treasury notes, he either had voted against or had not voted for it. I do not care which horn of the dilemma he assumes.

Mr. BRIGHT. The Senator will allow me a moment?

Mr. DAVIS. Certainly, sir.

Mr. BRIGHT. Mr. President, yielding to what seemed to be the wishes of my friends, I had decided not to say another word upon this subject; but the Senator has just made a remark that induces me to appeal to what I consider that sense of justice that every gentleman and every Senator ought to possess, and I have no doubt he does. I am on trial for that which deprives me of my position here, and to some extent affects my reputation as a public man. The latter I care a great deal for; the former, very little. Now, the gentleman announces that he has not examined my record carefully, but he is told that it is so and so. If I am arraigned for that which is not only to deprive me of my seat here, but of my reputation in the estimation of many, is it not but just to me that that Senator should take my record and examine it carefully, run it over line by line and word by word before he undertakes to quote me? Sir, if he will take the trouble to look into the proceedings of this body, he will find no such votes and no such sentiments as he imputes to me. If he will take the trouble to read from the letter that I wrote reviewing this letter to which so much consequence has been attached, and to which I never attached any, and I am astonished to find that any sensible man does, he will find that I spoke of the doctrine of coercion as a general principle, connecting itself with a constitutional administration of this Government. Has there not been on the floor of the Senate, from the foundation of this Government to this hour, Senators who have uniformly denied, openly and boldly, the power of the Federal Government to coerce any one of the sovereign States of this Union, that had, by a legislative or conventional resolve, declared herself no longer a party to the original compact? And has this not been the theory of leading members in both branches of Congress in all time past?

If the Senator from Kentucky will take the trouble to examine into my poor speeches, the few that I made, he will find that I have ever opposed this heresy, the right of secession. I never have admitted the right of a single State to secede. I had the honor of serving for several years in this body with the great South Carolinian, Mr. Calhoun; and during that service he, and those of his peculiar school of politics, frequently favored the Senate and country with series of resolutions enunciating these doctrines of State rights and State sovereignty, and no doubt the Journals will show my votes; and if the gentleman will take the trouble to examine my record, I have no hesitation in saying that he will find that I have ever opposed both the doctrines of nullification and secession. But the question of coercion is quite another thing.

Mr. HOWE. I would like to ask the Senator from Indiana, for information, if he can refer me to a speech made during the last session of Congress in which he denied the right of secession,

or in which he expressed his opinions upon that question?

Mr. BRIGHT. It is well known I am not greatly given to speech-making. I have generally been content to record my opinions upon the yeas and nays, always inclined to be silent, unless an unexplained vote was calculated to place me in a false position. I will refer the honorable Senator, however, to a few remarks I made at the last session, bearing somewhat upon this question. I believe, on an amendment offered by my friend from Ohio, [Mr. SHERMAN,] I stated that there were three parties on this floor, as I understood them—an extreme northern party, known as abolitionists, that was in favor of invading the southern States, declaring the slaves free, and arming them against their owners; and at the head of that party I classified the Senator from Massachusetts, [Mr. SUMNER,] who, in a prepared, elaborated speech, has traveled out of the record to assault me in this prosecution. I classed him at the head of it, and the Senator from Kansas as one of his supporters.

I said there was another class, known as the Republican party, that I understood to be opposed to that line of policy, and I named the honorable Senator from Ohio, [Mr. SHERMAN,] and I might have named many others now in my eye, all in favor of furnishing whatever of men and money might be necessary to invade any and every State in rebellion against the laws of the United States, and by military force subjecting the people therein to obedience. I believe, sir, that I went further, and said that I understood this class of Senators as being opposed to interfering with the rights of property or slavery in those States, except as a military necessity.

The third party which I referred to embraced that portion of the Senate opposed to invading any one of the States that had formally declared herself out of the Union, and attempting by force of arms the subjugation of her citizens and the destruction of their property, until all effort to effect a reconciliation and a peaceful adjustment had been exhausted; that whatever men or money was necessary to protect or defend the capital, or States yet loyal and faithful to the Union, ought to be furnished. I classed myself with this third party at that time, and said what I honestly believed, that there was still hope for an adjustment.

But, sir, nowhere can the Senator from Kentucky, or any other Senator, find that I declared I would not vote a man or a dollar to defend the capital, or the States faithful to the laws and Constitution. On the contrary, my votes will show, when I voted at all, either in committee or the Senate, that I have made no factious opposition to any of the measures of the party in power. Where I disapproved the measures of the last session, I manifested my opposition, I trust, in a becoming and senatorial manner, and beyond that it is not the prerogative of any man to inquire. I am afraid the Senator from Kentucky has given his ear to an outside influence that has arrayed itself against me.

Mr. DAVIS. I gave you to enable the gentleman to make an explanation.

Mr. BRIGHT. Well, sir, I do not know what explanation the Senator from Kentucky desires.

Mr. DAVIS. The gentleman is charging me now with leaning to an outside influence. If he wants "to carry the war into Africa," I am ready to meet him.

Mr. BRIGHT. The Senator from Kentucky cannot alarm me.

The VICE PRESIDENT. Senators will preserve order.

Mr. BRIGHT. I understand him, and no doubt he understands me. I have not imputed anything improper to the Senator from Kentucky. He has admitted that he has not examined my record; he has not examined the Journal that contains the votes, and the speeches that I have made. How then did he get the information that has justified him in standing here and thus misrepresenting me? I deny *in toto* that if he will examine my record it will furnish him with any such facts as he has detailed; he has been misinformed. The records will prove whether my statement is true. Present them and I will answer you.

Mr. DAVIS. Mr. President, I made precisely the same statements in relation to the gentleman's record and votes the other day that I have made on this occasion, and I made them expressly that

he might set me right if I was wrong in relation to the facts.

Mr. BRIGHT. I did, sir. I rose at the conclusion of your speech and corrected you.

Mr. DAVIS. The gentleman misstates me now when he says that I misrepresented him. I did not represent him at all, except from report. I stated then distinctly that I had not examined his record, but I stated what I had been informed was the effect of that record. When I made these statements it was with a view to give the gentleman the opportunity to place himself right upon the record.

Mr. BRIGHT. Will the honorable Senator yield me the floor for a moment?

Mr. DAVIS. No—no, sir.

Mr. BRIGHT. Very well, sir. I will take it after you, then.

Mr. DAVIS. Very good.

The VICE PRESIDENT. The Senator from Indiana will come to order.

Mr. DAVIS. Now, sir, there was a series of coercive measures passed by Congress at the extra session. I ask the gentleman this question, and I will give way for him to answer it, if he chooses to do so; will he name which of these measures of coercion he voted for? Will he do that?

Mr. President, I was present a few days ago when the resolution was offered in this body pledging it to raise \$150,000,000 by taxation. The gentleman was in his seat a few minutes before that vote was taken; but when that vote was taken, if I recollect aright, he was out of his seat.

The gentleman had his senatorial duties here to perform; and when the Government was assailed by hostile armies, and the Constitution was about to be put down by a great rebellion, my understanding of his duty (upon which I intend to give my vote) was that it was his duty to vote men and money to repel that assault upon the Constitution and the Government in some form or other.

Mr. President, I have no enmity against the gentleman from Indiana. I would have been rejoiced if he could have shown a vote in favor of every necessary measure to raise men and money to enable this Government to defend itself; and now, if he will tell me specifically what bill to raise armies, what bill to levy taxes, what bill to borrow money, what bill to issue Treasury notes, he voted for—he knows; I do not; and I have not had the opportunity to examine, and was not disposed to do so—if he will tell me which and every one of these measures he voted for, I at least will give him full credit.

Mr. FESSENDEN. Will my friend allow me to make one suggestion to him? I have been examining the record, not fully, but as well as I could, and it accords with my recollection so far as I have examined, that the yeas and nays were not taken upon any one of those bills; they passed *sub silentio*, by general consent.

Mr. BRIGHT. If the honorable Senator will allow me, while our chairman of Finance is upon the floor, I desire to put a question to him which I regard as very appropriate. I know it may be considered, by some, in bad taste for me to interfere in this debate, but as the Senator from Maine has risen, and he is of opposite politics with myself, and I have no personal claims on him, I will put a question to him. It is accidental that I am thrown on the Committee on Finance, that has charge of the money operations of the Government so far as this Chamber is concerned. I have met with him, I believe, as often as with any other member of the committee, and I will ask him what has been my course in reference to the business of the body at the last session and the present in regard to the money measures of the Government.

Mr. FESSENDEN. I will say, with the permission of the Senator from Kentucky, that, according to my recollection, in the Committee on Finance, whenever the Senator from Indiana was there—and I believe he was pretty constant in his attendance—all those necessary measures not only received no opposition from him, but had his fullest concurrence.

Mr. BRIGHT. I have asked that question, if the Senator from Kentucky will allow me to say so, not that I acknowledge his right to catechise me as to what my votes, either in committee or in this body, are—they are with me and my constituents—but to relieve him from a great deal of trouble that I think he is borrowing in reference to my course.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION.

FRIDAY, JANUARY 31, 1862.

NEW SERIES,....No. 35.

Mr. DAVIS. I did not claim the right to catechise the gentleman, and put him upon an examination of his record. I told him that he knew his record better than I did, and I left it to him to refer to his record or not. When the gentleman was availing himself of an opportunity which I gave to him to make a personal explanation, he commenced an attack upon me, and I told him that, if it was his purpose to carry the war into Africa, he would find me ready to defend myself. I meant that, as he had chosen to make the war in that form, I would defend myself in that form. I did not make any threat or menace against the gentleman at all. I intended it in the sense in which the gentleman himself stated it—in which he commenced the war upon me. If the gentleman needs any further explanation, he can get it. I made no menace.

Mr. BRIGHT. I have no explanation to make. I am not a man of war, sir; I am a man of peace, and desire peace.

Mr. DAVIS. So am I. Well, Mr. President, I will proceed now with this explanation. Here is the language of the gentleman in his letter of 7th September:

"I have opposed, and so long as my present convictions last shall continue to oppose, the entire coercive policy of the Government."

Is not that position broad? Did not the gentleman at least in his vote, or in his refusal to vote, the other day, act up to that position? Has he not here declared himself in the most distinct terms against coercion? The gentleman says, as many gentlemen say to us that are against coercion, "I am against secession;" but how is secession to be put down except by coercion? When there are a hostile government and hostile armies trying to disrupt the Union and to revolutionize the Government at the point of the sword, how can the gentleman discharge his duty to the Government and the Constitution of the United States except by voting men and measures to support that Constitution and that Government?

The gentleman, in his first remarks to this body, read from a speech that he made at the last session of Congress, and if I recollect a passage in that speech, he distinctly reasserted then his opposition to the principle of coercion. But here is his letter addressed to Mr. Fitch on the 7th of September last, after the coercive policy of the Government had been fully inaugurated, and after the legislative power of the United States had passed its measures to subdue the rebellion. These measures were known as the system of coercion adopted by the Government to put down the rebellion; and after those measures had been fully voted by the Congress of the United States, and were in course of execution by the President, the gentleman writes this letter to Mr. Fitch, in which he avows his utter opposition to coercion:

"I have opposed, and so long as my present convictions last shall continue to oppose, the entire coercive policy of the Government. I hope this may be satisfactory to my friends. For my enemies I care not."

The gentleman in his speech the other day stated distinctly that he had formed his opinions after mature reflection, that he had formed them many years ago, that he still adhered to them, and that it was just as possible for the Ethiopian to change his skin as it was for him to change his opinions.

Now, what is the position that I have attempted to assume all the time? I have conceded, and I now concede, that a gentleman may maintain such abstract opinions as he pleases; he may assert those opinions in every place and in every form that does not interfere with his official duty; but whenever he asserts those opinions, or fails in a particular line of official duty in consequence of his opinions, so as to prevent him from doing his duty to the Government and in support of the Constitution, the gentleman then becomes amenable to be proceeded against upon a resolution for expulsion.

At the close of his remarks the gentleman referred to me very significantly, saying: "I know you." I ask the gentleman what he meant by that. Did the gentleman mean a menace against

me in that exclamation? Did the gentleman mean a threat against me in that exclamation? I pause for a reply.

Mr. BRIGHT. Mr. President, I am not conscious of having threatened the Senator from Kentucky.

Mr. DAVIS. Very good. That is sufficient. Mr. BRIGHT. I do not wish to be understood as threatening him. There is no reason why I should.

Mr. DAVIS. The gentleman has answered my question.

Mr. BRIGHT. I have no idea, from what I know of him, that he would be deterred from doing his duty by a threat. If he thinks I can be, he may make the experiment.

Mr. DAVIS. I am here on peaceful relations with the gentleman, and every member of the Senate.

Mr. BRIGHT. So am I, sir.

Mr. DAVIS. And I wish to occupy no other relations. I wish to make no threat against him or any other member. All I wanted to know was whether the gentlemen intended a menace for me. He has avowed that he did not, and that is satisfactory to me.

Now, Mr. President, a few more words and I have done. I say this is the law of Parliament; and as it is the law it ought to be enforced: whenever a gentleman by his opinions, and those opinions are connected with his official conduct, shows that he is an improper person to be in the Senate of the United States, he ought to be expelled from it. I say, taking the gentleman's two letters together, and his vote the other day against the \$150,000,000 bill, they of themselves are sufficient to authorize me to vote against him, or any other member of the Senate who gives such votes.

I beg your pardon, sir, and I beg the pardon of the Senate for having entered into so long an explanation as this. I trust that I shall not have occasion to say anything more upon this subject; but if I shall have, I will say it.

EXECUTIVE SESSION.

Mr. WILSON, of Massachusetts. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 29, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON. The Journal of yesterday was read and approved.

DISBURSEMENTS IN THE STATE DEPARTMENT.

The SPEAKER laid before the House a communication from the Secretary of State, transmitting a statement of the disbursements of the counting fund, balances of appropriations on hand, &c., and precise analytical statements of the moneys disbursed by the State Department; which was laid upon the table, and ordered to be printed.

CLERKS, ETC., IN STATE DEPARTMENT.

The SPEAKER also laid before the House a statement from the Secretary of State, transmitting a list of the clerks and other persons employed by the State Department; which was laid upon the table, and ordered to be printed.

ESTIMATES FOR POST OFFICE DEPARTMENT.

The SPEAKER also laid before the House a communication from the Post Office Department, transmitting an estimate for the service of the Post Office Department for the fiscal year ending the 30th of June, 1863; which was referred to the Committee of Ways and Means, and ordered to be printed.

EMPLOYÉS IN THE POST OFFICE DEPARTMENT.

The SPEAKER also laid before the House a communication from the Post Office Department, transmitting in compliance with law a list of the

clerks, messengers, and other persons employed in that Department during the year ending the 30th of June, 1861; which was laid upon the table, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed a bill to authorize the President of the United States, in certain cases, to take possession of railroad and telegraph lines, and for other purposes, in which he was directed to ask the concurrence of the House.

EXECUTIVE, ETC., APPROPRIATION BILL.

Mr. VALLANDIGHAM. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the amendments of the Committee of the Whole on the state of the Union to the executive, legislative, and judicial appropriation bill.

Mr. HOLMAN. I hope that no objection will be made to my making amendments in the House to this bill.

The SPEAKER. The main question has been ordered, and no amendment or debate is now in order, unless by unanimous consent.

Objection was made.

The Clerk read the first amendment, as follows: Insert at the end of the first clause of the bill the following proviso:

Provided, That nothing herein contained shall be construed as in any manner impairing the right to reduce the compensation of any officer of the Government, or to abolish any existing office.

Mr. HOLMAN. I want to call attention to an implied understanding, that I should have an opportunity this morning to move an amendment.

The SPEAKER. The main question has been ordered, and all debate and amendment are out of order.

Mr. HOLMAN. I only want to make an explanation. Objection was made.

The amendment was concurred in.

Second amendment:

After the words, "For compensation and mileage of Senators, \$240,430," insert the following:

Provided, That the second mileage due by law shall be paid at the present session upon the certificate of the Presiding Officers of the Senate and House of Representatives: Provided further, That the foregoing proviso shall not be considered to give any more mileage than is allowed by existing laws.

Mr. HOLMAN. I demand the yeas and nays on that amendment.

On a division, there were—ayes 6, nays 42.

So the yeas and nays were not ordered.

Mr. HOLMAN. Is there a quorum present?

The SPEAKER. A quorum is not necessary to order the yeas and nays.

Mr. HOLMAN. I ask the Chair whether there is a quorum present?

The SPEAKER. Ninety-five members are present, which is a quorum.

The amendment was agreed to.

Third amendment:

Strike out "for Congressional Globe and binding the same, \$30,000," and in lieu thereof insert:

For binding documents and purchase of blank-books, \$2,500.

The amendment was concurred in.

Fourth amendment:

After the above insert:

To pay John C. Rives for printing five hundred copies of the Diplomatic Correspondence of the United States from 1776 to 1783, for the State Department, \$15,000.

The amendment was concurred in.

Fifth amendment:

Strike out "\$30,000," and insert "\$2,500;" so that the paragraph will read:

For binding documents, including the Congressional Globe, \$2,500.

The amendment was concurred in.

Sixth amendment:

Strike out "\$17,796," and insert "\$14,000;" so that the paragraph will read:

For twenty-four copies of the Congressional Globe and Appendix for each Member and Delegate of the second reg-

ferred, against their will and without their consent, for any term of years or for any time whatever, as servants or apprentices, or to be held to service or labor. And if any ship or vessel, steamship or steam vessel, belonging in whole or in part to citizens of the United States, and registered, enrolled, or otherwise licensed, shall be employed for that purpose, or in the cool trade, so called, or shall be caused to procure or carry from China or elsewhere, any subjects of the Government of China for the purpose of thus transporting or disposing of them, every such ship or vessel, steamship or steam vessel, her tackle, apparel, furniture, and other appurtenances, are to be forfeited to the United States, and to be liable to be seized, prosecuted, and condemned in any of the circuit courts or district courts of the United States for the district where the ship or vessel, steamship or steam vessel, may be found, seized, or carried. Every person who shall so build, fit out, equip, load, or otherwise prepare, or who shall send to sea, or navigate, as owner, master, factor, agent, or otherwise, any ship or vessel, steamship or steam vessel, belonging in whole or in part to citizens of the United States, or registered, enrolled, or licensed within the same, or at any port thereof, knowing or intending that the same shall be employed in that trade or business, contrary to the true intent and meaning of this act, or in any wise aiding or abetting, is to be liable to be indicted, and, on conviction, to be liable to a fine not exceeding \$2,000, and be imprisoned not exceeding one year. Any citizen of the United States who shall take on board of any vessel, or receive or transport any such coolies, for the purpose of disposing of them, will be liable to be indicted, and, on conviction thereof, be liable to a fine not exceeding \$2,000, and be imprisoned not exceeding one year.

Nothing in this act is to be deemed or construed to apply to or affect any free and voluntary emigration of any Chinese subject, or to any vessel carrying such person as passenger; but a "permit" or certificate is to be prepared and signed by the consul or consular agent of the United States residing at the port from which such vessel may take her departure, containing the name of such person, and setting forth the fact of his voluntary emigration from such port or place, which certificate is to be given to the master of the vessel; but the same is not to be given until such consul or consular agent shall be first personally satisfied by evidence produced of the truth of the facts therein contained.

All the provisions of the act of Congress approved 22d February, 1847, entitled "An act to regulate the carriage of passengers in merchant vessels," and all the provisions of the act of Congress approved 3d March, 1849, entitled "An act to extend the provisions of all laws now in force relating to the carriage of passengers in merchant vessels and the regulation thereof," is to be extended and to apply to all vessels owned in whole or in part by citizens of the United States, and registered, enrolled, or licensed within the United States, propelled by wind or by steam, and to all masters thereof, carrying passengers or intending to carry passengers from any foreign port or place without the United States to any other foreign port or place without the United States; and all penalties and forfeitures provided for in that act are to apply to vessels and masters referred to.

The President of the United States is to be authorized and empowered, in such way and at such time as he shall judge proper, to the end that the provisions of this act may be enforced according to the true intent and meaning thereof, to direct and order the vessels of the United States, and the masters and commanders thereof, to examine all vessels navigated or owned in whole or in part by citizens of the United States, and registered, enrolled, or licensed under the laws of the United States, wherever they may be, whenever, in the judgment of such master or commanding officer thereof, reasonable cause shall exist to believe that such vessel has on board, in violation of the provisions of this act, any subjects of China known as "coolies," for the purpose of transportation; and upon sufficient proof that such vessel is employed in violation of the provisions of this act, to cause such vessel to be carried, with her officers and crew, into any port or district within the United States, and delivered to the marshal of such district, to be held and dis-

posed of according to the provisions of this act. This act is to take effect from and after six months from the day of its passage.

The Committee on Commerce of the Senate reported the bill with an amendment, to strike out, in lines thirteen and fourteen of the first section, the words "against their will and without their consent."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

ADJOURNMENT TO MONDAY.

Mr. FOSTER. I move that when the Senate adjourns to-day, it be to meet on Monday next.

Mr. HALE. I hope we shall ascertain, before a vote is taken on that motion, whether we can dispose of the case of the Senator from Indiana, [Mr. BRIGHT.] If we do not dispose of that, I hope we shall sit to-morrow, and I shall vote against any adjournment over until that is ascertained.

Mr. McDOUGALL. Let me ask the Senator from New Hampshire to agree with me in the proposition I made yesterday, to sit here until we do dispose of it.

Mr. HALE. I will.

Mr. McDOUGALL. Very well.

The VICE PRESIDENT. The question is on the motion of the Senator from Connecticut, that when the Senate adjourns it be to meet on Monday next.

The motion was agreed to; there being on a division—ayes twenty-five, noes not counted.

CONSULAR AND DIPLOMATIC BILL.

Mr. FESSENDEN. The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 150) making appropriations for the consular and diplomatic expenses of the Government, for the year ending 30th June, 1863, and additional appropriations for the service of the fiscal year ending the 30th June, 1862, having met, after full and free conference, have agreed upon a report. They recommend that the House of Representatives recede from its disagreement to the ninth amendment of the Senate, and agree to the same. That was the amendment striking out Hayti and Liberia. The committee recommend that the Senate recede from its fourth amendment. That was the amendment with reference to a consulate general at Florence. I beg leave to say here that there was no difficulty in agreeing upon this, as Colonel Lawrence, the gentleman who had been nominated for that post, hearing that there was decided objection on the part of the House of Representatives, did not wish that for his sake any further trouble should be made about it, but was perfectly willing to serve, if Congress required him to do so, even without any pay. The committee recommend that the Senate concur in the House amendment to the Senate's fourteenth amendment, with an amendment striking out "Santa Cruz," which was inserted erroneously. The committee recommend that the Senate concur in the House amendments to the eighteenth, nineteenth, and twenty-second amendments of the Senate. These are mere formal amendments in regard to the sums appropriated, carrying out those previously adopted.

The report was concurred in.

PAY OF MILITARY WITNESSES.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 42) in relation to the payment of the expenses of the joint committee of Congress appointed to inquire into the conduct of the war, approved January 27, 1862; which was read twice by its title.

Mr. WADE. It is necessary to pass this joint resolution at once. I do not think there will be any objection to it, and by general consent I should like to have it considered at the present time.

There being no objection, the Senate as in Committee of the Whole proceeded to consider the joint resolution, which directs that the amount appropriated by the joint resolution of January 27, 1862, for the payment of the expenses of the joint committee of Congress appointed to inquire into the conduct of the war, or any portion of it that may be allowed by the committee to witnesses before it or others engaged in its service for per-

diem, and traveling or other expenses, shall be allowed and paid at the Treasury.

Mr. WADE. A difficulty has grown up in the committee and with the officers as to whether military men and others holding office under the Government are entitled to a per diem for being witnesses. We desire to have the question referred to the Comptroller of the Treasury to be adjusted, rather than to have it adjusted by our officers, who may get into trouble about it. There cannot be any objection to it, and I hope the joint resolution will be allowed to pass at once.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PROPOSED EXPULSION OF MR. BRIGHT.

The Senate resumed the consideration of the following resolution, submitted by Mr. WILKINSON, on the 16th of December last, and which had been reported adversely from the Committee on the Judiciary.

Whereas Hon. JESSE D. BRIGHT, heretofore, on the 1st day of March, 1861, wrote a letter, of which the following is a copy:

WASHINGTON, March 1, 1861.

MY DEAR SIR: Allow me to introduce to your acquaintance my friend, Thomas B. Lincoln, of Texas. He visits your capital mainly to dispose of what he regards a great improvement in fire-arms. I recommend him to your favorable consideration, as a gentleman of the first respectability, and reliable in every respect.

Very truly yours, JESSE D. BRIGHT.

To his Excellency JEFFERSON DAVIS,
President of the Confederation of States.

And whereas we believe the said letter is evidence of disloyalty to the United States, and is calculated to give aid and comfort to the public enemies: Therefore,

Be it resolved, That the said JESSE D. BRIGHT is expelled from his seat in the Senate of the United States.

Mr. TRUMBULL. Before the Senator from California proceeds, I desire to say a word. This debate will doubtless occupy most of the day; and as suggestion has been made that we finish it to-day, I should like to know if that is the general understanding of the Senate. If it is, Senators who desire to vote upon it will of course remain in the Senate, or where they can be found when the Senate is about to vote. Some of us might desire to leave the Senate this afternoon if the vote is not to be taken; but if the vote is to be taken, I trust it may be generally understood, and we will remain.

Mr. McDOUGALL. I think it is understood that the vote is to be taken.

Mr. BAYARD. I wish to make a suggestion. I understand there are several Senators yet to speak, and I desire to make a few more remarks myself. I suggest, therefore, that the Senate arrange to take the vote on Monday, at two or three o'clock.

Mr. FESSENDEN. There is a special order for Monday.

Mr. BAYARD. I name that hour merely to take the vote. I do not think we can take a vote to-day. Several Senators I know desire to speak.

Mr. McDOUGALL. I hope we shall remain and sit this question out.

Mr. TRUMBULL. I hope the proposition of the Senator from Delaware will be acceded to. If there are a number of Senators desiring to speak, I know very well we can make nothing by trying to force the question. The Senator from Delaware, a friend of the sitting Senator whose seat is in question, suggests that we take the vote at a particular hour on Monday. I am sure we shall all accommodate ourselves best by agreeing to that. It will take but a few minutes to take the vote; and if we can have a common understanding to have the vote at any hour, one or two o'clock, as may be most convenient. I hope it will be acceded to.

Mr. FESSENDEN. I hope so, too. We cannot force a vote.

Mr. HALE. I simply wish to say that I am a party to no agreement to take this vote at any time. I do not want to deceive or be deceived. I agree to no such arrangement.

Mr. ANTHONY. Nor I. I do not think we can enter into any such arrangement where the seat of a Senator is in question.

The VICE PRESIDENT. The Senator from California is entitled to the floor.

Mr. McDOUGALL. I wish to say one thing about this matter, and I will make that preliminary to my discourse, though it will not be much of a discourse, but a mere statement of opinion.

I think this business should be closed, and I waited for its close to state simply a few opinions of mine, not to make an argument. I have been waiting for it for many days, and I think it is time it was closed. I think it would be better for this Senate if they would make up their minds that they would dine down stairs, or somewhere about here, and close up the business they have on hand for the day before they adjourn. I am willing to sit here. I have never in any place of this kind which I have occupied moved an adjournment, or voted for one. I am willing to work when I am the public servant.

Mr. FESSENDEN. If the Senator will allow me to say one word in reference to this matter before he begins his remarks, I will do so; but I do not wish to interfere with him. I wish simply to say that I do not recognize any difference at all between this and any other business of the Senate, and that the Senate will stay here if it pleases long enough every day to attend to its duty, whether it is one thing or another. But, sir, of all things in the world, I do not think the question of the expulsion of a member from this body is one to force a vote upon at an unreasonable hour. I think that it should be fully discussed, and certainly the majority of this body has no claim whatever to force the minority upon that question after they have taken up so much time in the discussion.

Mr. McDUGALL. My opinion is, and I make this statement in reply to the Senator from Maine, that time is saved by requiring men who have opinions, to express them when the business is on the carpet. By adjourning controversies from day to day, we lose opinion, and lose convictions, and sometimes lose the truth.

The VICE PRESIDENT. The question before the Senate is on the resolution offered by the Senator from Minnesota.

Mr. McDUGALL. Mr. President, the question before the Senate is as to whether an honorable gentleman, who for many years has occupied a place here as the representative of what we call, and what in a certain sense may be justly called, a sovereign State, has a right to a place upon this floor. Our judgment has been challenged, and it must be passed, be it just or unjust, according to our best wisdom. It is a painful office for every man who sits on this floor, and to me it is extremely painful. I have never before in the course of my official life, and I have lived in office several years, stood halting between adverse opinions as I have on this occasion; but after having fairly and carefully considered all the controversy, I thought the conflict came between my inclination and my judgment, and I have been compelled to cultivate all the iron there was in my nature to make judgment just.

Mr. President, I have said that I will not argue this question. I have made no argument in this Hall. These are not days for argument. They are days for opinions, and if I can give full and exact expression to the opinions I entertain, I shall do all that I can hope to do, and all that I should do.

We are at war. How long have we been at war? We have been engaged in a war of opinion, according to my historical recollection, since 1838. There has been a systematic organized war against the institutions established by our fathers, since 1832. This is known to all men who have read carefully the history of our country. If I had the leisure, or had consulted the authorities, I would give it year by year and date by date from that time until the present, how men adversary to our republican institutions have been organizing war against us, because they did not approve of our republican institutions.

Before the Mexican war, it is well known that General Quitman, then Governor of Mississippi, was organizing to produce the same condition of things, (and he hoped a better condition of things, for he hoped a successful secession,) to produce this same revolution that is now disturbing our whole land. The war with Mexico, fighting for a southern proposition, for which I fought myself, made the nation a unit until 1849; and then again they undertook an organization to produce revolution. These things are history. This statement is true, and cannot be denied among intelligent men anywhere, and cannot be denied in this Senate.

The great men who sat in council in this Hall, the great men of the nation, men whose equals are

not, and I fear will not be for many years, uniting their judgments, settled the controversy in 1850. They did not settle it for the conspirators of the South, for they were not parties to the compact. Clay and Webster, and the great men who united with them had no relation with the extremes of either extreme faction. The compromise was made, and immediately after it had been effected, again commenced the work of organization. I had the honor to come from my State on the Pacific into the other branch of the Federal Congress, and there I learned as early as 1853, that the work of treason was as industriously pursued as it is being pursued to-day. I saw it; I felt it; I knew it. I went home to the shores of the Pacific instructed somewhat upon this subject.

Years passed by. I engaged in my duties as a simple professional man, not connected with public affairs. The question of the last presidential election arose before the country—one of those great questions that are not appreciated, I regret from my heart, by the American nation, when we elect a President, a man who has more power for his time than any enthroned monarch in Europe. We organize a Government and place him in front as the head and the chief of the Government. That question came before the American people. At that time I was advised of this state of feeling, and I will state it in as exact form of words as I can state it, that it may be understood by Senators: Mr. Douglas is a man acceptable to the South. Mr. Douglas is a man to whom no one has just cause of exception throughout the South. Mr. Douglas is more acceptable to Mississippi and Louisiana than Mr. Breckinridge. Mr. Breckinridge is not acceptable to the South; or at least if he is so, he is not in the same degree with Mr. Douglas. Mr. Douglas is the accepted man of a great national party, and if he is brought into the field he will be triumphantly elected. That must not be done, because the organization for secession is matured. Everything is prepared, and the election of Mr. Douglas would only postpone it for four years; and now when we are prepared to carry out these things we must indulge in stratagem, and the nomination of Mr. Breckinridge is a mere strategic movement to divide the great conservative party of the nation into two, so as to elect a Republican candidate and consolidate the South by the cry of abolitionist.

That is a mere simple statement of the truth, and it cannot be contradicted. Now, in that scheme all the men of counsel of that party were engaged. I cannot allow myself, with all the wish I have to be kind, and with all the wish I have to indulge in every doubt in favor of the Senator from Indiana, to believe that he did not understand, as well as I on the far shores of the Pacific understood, those things as long ago as a year last September. I was advised about this policy and well informed of it. He was at the center of information, and he could not be unlearned as to these matters. I will say here, in passing, that I differ from my friend from Pennsylvania, [Mr. COWAN,] for whom I have, not reverence, but great respect, and in stating my opposition to his view of the duty of a Senator, I will state what I hold the position and duty of a Senator to be.

This is no court. Courts are things of kings. This is no court; and more than that, we are controlled by no record. The whole use of a record is, that it shows what is to be determined by the tribunal. What it represents is matter of no importance. Every Senator, as I understand, stands here *in foro conscientia* to judge justly of the case presented. It is said of a Federal Senator that for his conduct and opinion he has no right to a place upon this floor; and my opinion, and the opinion of every Senator, is asked upon that question, and each of us is bound to answer in the forum of his own conscience, and he must form his judgment as he can be best advised; for we sit here as Senators, the guardians of the nation's welfare, to admit to sit with us men who undertake to maintain the rights and stand by the Government, and to throw off from us those who are not of us and are not for the maintenance of what we believe to be the right. This can be determined by no rule of evidence, by no written record, but by the extreme apprehension a man may be able to possess himself of to comprehend all that may properly enter into the result in his own mind.

I have tried myself with great care, at midnight

and in the morning, to reduce this question. It has been a struggle between my inclinations and my judgment. I have been compelled finally to act on my first conceived opinions, and I believe that instinct after all is higher than reason. When I first saw the letter of the Senator from Indiana published, I said, "that is the most treasonable thing that I know of, that I have witnessed on the part of any public man who occupies a place in Federal office." That is what I said to myself, and what I said to my friends. I did not say it was treason, but I said it was treasonable. And then I thought that a man who could write treasonably, had no right to be of the council of these men who undertake to conduct this great Republic in its time of trial. This opinion of mine I expressed at an early day, when Congress was not in session; and I argued with myself when I came back into this Hall, and when this resolution was moved, I was compelled to say to my colleague, "I cannot see how, consistent with my office, I can sustain any man in a place upon this floor as a counselor with me in the great affairs of the Republic, who can write and do these things."

It is my opinion, as I am informed and advised from all my information and reading of law, that that letter is treasonable; and I have been three times the chief criminal prosecuting officer of a State—twice in the State of the gentleman on my right [Mr. BROWNING] and once where I belong now. According to the strict rule of the English law, it is treason. According to the kindest expression, it is misprision of treason. But I do not choose to deal in technical terms. It was written at a time when we were at war; yes, I was at war in California in January last; in the maintenance of the opinions that I am now maintaining, I had to go armed to protect myself from violence. The country, wherever there was controversy, was agitated to its deepest foundations. That is known, perhaps, not to gentlemen who live up in Maine or Massachusetts, or where you are foreign to all this agitation; but known to all people where disturbance might have been effective in consequences. I felt it, and had to carry my life in my hand by the month, as did my friends surrounding me. I say that all through last winter war had been inaugurated in all those parts of the country where disturbed elements could have efficient result. In January, a year ago, I stood in the hall of the House of Representatives of my State, and there was war then, and angry faces and hostile men were gathered; and we knew then well that the southern States had determined to withdraw themselves from the Federal Union. I happened to be one of those men who said "they shall not do it;" and it appears to me that the whole argument is between that class and the class of men who said they would let them do it—the Tribune, for instance—a class probably to whom the gentleman from Indiana belonged, who say, "let them go away and be no more of us." That is the only apology I can make for his case, and it is his best apology. But I thought myself a citizen of this entire Republic; I have been for all that it is, for all that it could hope to be. I had believed in my young faith, and that faith had culminated in my manhood, that this great system adopted by our fathers was capable of expanding itself over the whole continent, and could make the undivided continent ours. My opinion went with my hopes, and therefore, when this doctrine was started here of disintegrating the cotton States from the rest of the Confederacy, I opposed it at once. I saw immediately that war was to be invoked. I have heard a hundred gallant Democrats, who left the Democratic party and voted for Lincoln, say that they voted for him because they would not leave that war which was impending upon them by this conduct to their children; and if I had dared to be a Republican, I think I should have been in the same category.

The letter of the Senator from Indiana was written in the face of these things that were understood. I will not say they were understood by gentlemen of the Republican party; I will not say, for instance, that my friend from Rhode Island [Mr. ANTHONY] understood anything about these things; I will not say that gentlemen on the other side of the House generally understood anything about them; I will not say that my friend from Maryland [Mr. KENNEDY] understood anything about them; but I, having been accepted

and received as a Democrat of the old school from the older time, and having fast southern sympathies, I did know all about them; and I cannot, in the forum of my own conscience, conceive that the Senator from Indiana knew less than I did. I knew that secession was a thing determined upon.

Here I might state a fact; but I see there is a great courtesy in the Federal Senate. Let me remark one thing, and Senators will have occasion to learn it, if they have not learned it yet; they will want a little more infusion of iron, and to be just as well as courteous. I say I cannot, for a moment, suppose that the Senator from Indiana knew less than I knew, and I was advised of and understood the whole programme, knew how it was to be done in its details; and I being advised made war against it; he being advised gave it his adherence and support. War had been, in fact, inaugurated. What is war? Was it the firing on our flag at Sumter? Was that the first adversary passage? To say so is trifling with men's judgments and information. No, sir; when they organized a government, and set us at defiance, they commenced war; and the various steps they took afterwards by organizing their troops, and forming their armies, and advancing upon Sumter; all these were merely acts of war; but war was inaugurated whenever they undertook to say they would maintain themselves as a separate and independent government; and after that time every man who gave his assistance to them was a traitor, according to the highest law.

Now, without any unkindness to the gentleman from Indiana, let me say what I think of a traitor. I think treason is the highest multiplication upon crime known to numbers. It is falsehood to commence with, and multiplied infinitely. A man who is a traitor has to be false to himself, to his family, to his God, and to his country. I do not mean to say, in this Senate, that the Senator from Indiana is a traitor. I will not say that. I am only defining how I feel about a traitor. I say that he, not knowing the fealty that belongs to the country, not understanding what the duty was that a man owed to his native land, to the country where he had had his birth, to the institutions under which he had grown up, lent his arm and his strength to a foreign and a hostile power. If he were other than he is, if he were less than a Senator, I might understand that, ignorant of his obligations, thoughtless of the duties he owed to the land where he had been educated, and where he had grown to manhood, and from which he had acquired high office, he might have penned these lines which have been published; but I cannot, in my best and most just judgment, admit that as a possibility. I know the Senator from Indiana. He is a man of business; he is a man of system; he is a man of care. There are many men that I can see about me now who might do thoughtless things. When the Senator from Indiana did a thoughtless thing he made a mark against it, I think, in the morning of his life, and he got over it before he reached mature years. I cannot give him the advantage of supposing that he only intended to do a mere kindly, courteous act, which I would give to many men whom I know. Nay, more; were I disposed to do so, I should be debarred by what the Senator himself has declared upon this floor, within the past month, reaffirming the sentiments held by him when that letter was written. I must hold him, by the *lex scripta*, a careful man, who never put his foot down anywhere before he saw the place where he was going to plant it.

This letter was written by him just on the eve of extremities. I do not take anything from the letter of Mr. Seward to our minister at the Court of St. James; I take nothing from what may have been said in the Tribune by a gentleman who is called a representative of the Government. They talked peace. I knew there was war. The Senator knew there was war. We all knew that war had been predetermined as the culmination of a conspiracy of years. At that time, under those circumstances, the Senator from Indiana wrote his letter—and he a Senator in this Hall; one of the counselors of the nation; one of the men whose office it was to be guardian for the Republic—and in that letter he commended to a traitor, at the head of a traitorous government at war with us, a man with his skill and his arms. I could read to you from Blackstone, and I could bring the act within the terms of the provision of the Constitu-

tion about treason, for I could make it an overt act; but I do not care to discuss those questions. I merely wish to say that if I had done any such thing, I think I should deserve, not merely ejection from high office, but the highest punishment known to the law, and I would never dare to say it was unjust when sentence was pronounced.

Mr. JOHNSON. Mr. President, when this resolution for the expulsion of the Senator from Indiana was first presented to the consideration of the Senate, it was not my intention to say a single word upon it. Presuming that action would be had upon it at a very early day, I intended to content myself with casting a silent vote. But the question has assumed such a shape that, occupying the position I do, I cannot consent to record my vote without giving some of the reasons that influence my action.

I am no enemy of the Senator from Indiana. I have no personally unkind feelings towards him. I never had any, and have none now. So far as my action on this case is concerned, it will be controlled absolutely and exclusively by public considerations, and with no reference to partisan or personal feeling. I know that since the discussion commenced, an intimation has been thrown out, which I was pained to hear, that there was a disposition on the part of some to hound down the Senator from Indiana. Sir, I know that I have no disposition to "hound" any man. I would to God it were otherwise than necessary for me, as I think, to say a single word upon this question, or even to be compelled to cast a vote upon it. So far as I know, there has never been any unkind feeling between the Senator and myself from the time we made our advent into public life down to this moment. Although party and party associations and party considerations influence all of us more or less—and I do not pretend to be exonerated from the influence of party more than others—I know, if I know myself, that no such considerations influence me now. Not many years ago there was a contest before the Senate as to his admission as a Senator from the State of Indiana; we all remember the struggle that took place. I will not say that the other side of the House were influenced by party considerations when the vote upon that question of admission took place; but if my memory serves me correctly, there was upon one side of the House a nearly strict party vote that he was not entitled to his seat, while on the other side his right was sustained entirely by a party vote. I was one of those who voted for the Senator's admission to a seat upon this floor under the circumstances. I voted to let him into the Senate, and I am constrained to say that, before his term has expired, I am compelled to vote to expel him from it. In saying this, I repeat that if I know myself, and I think I do as well as ordinary men know themselves, I cast this vote upon public considerations entirely, and not from party or personal feeling.

Mr. President, I hold that under the Constitution of the United States we clearly have the power to expel a member, and that, too, without our assuming the character of a judicial body. It is not necessary to have articles of impeachment preferred by the other House; it is not necessary to organize ourselves into a court for the purpose of trial; but the principle is broad and clear, inherent in the very organization of the body itself, that we have the power and the right to expel any member from the Senate whenever we deem that the public interests are unsafe in his hands, and that he is unfit to be a member of the body. We all know, and the country understands, that provision of the Constitution which confers this power upon the Senate. Judge Story, in commenting upon the case of John Smith, in connection with the provision of the Constitution to which I have referred, used the following language:

"The precise ground of the failure of the motion does not appear; but it may be gathered, from the arguments of his counsel, that it did not turn upon any doubt that the power of the Senate extended to cases of misdemeanor not done in the presence or view of the body; but most probably it was decided upon some doubt as to the facts. It may be thought difficult to draw a clear line of distinction between the right to inflict the punishment of expulsion and any other punishment upon a member, founded on the time, place, or nature of the offense. The power to expel a member is not in the British House of Commons confined to offenses committed by the party as a member, or during the session of Parliament; but it extends to all cases where the offense is such as, in the judgment of the House, unfits him for parliamentary duties."—*Story's Commentaries on the Constitution*, sec. 836.

The rule in the House of Commons was undoubtedly in the view of the framers of our Constitution; and the question is, has the member unfitted himself, has he disqualified himself, in view of the extraordinary condition of the country, from discharging the duties of a Senator? Looking at his connection with the Executive; looking at the condition, and, probably, the destinies of the country, we are to decide—without prejudice, without passion, without excitement—can the nation and does the nation have confidence in committing its destinies to the Senator from Indiana, and others who are situated like him?

If we were disposed to bring to our aid, and were willing to rely upon, the public judgment, what should we find? When you pass through the country, the common inquiry is, "Why has not Senator BRIGHT, and why have not others like him, been expelled from the Senate?" I have had the question asked me again and again. I do not intend, though, to predicate my action as a Senator upon what may be simply rumor and popular clamor or popular indignation; but still it is not often the case that, when there is a public judgment formed in reference to any great question before the country, that public judgment is not well founded, though it is true there are sometimes exceptions.

Having shown our power in the premises to be clear according to the general authority granted by the Constitution and the broad principle stated by Judge Story in its elucidation, I next turn my attention to the case itself. The Senator from Indiana is charged with having written a letter on the 1st of March last to the chief of the rebellion, which is the basis of this proceeding against him. What was the condition of the country at the time that letter was written? Did war then exist or not? For really that is the great point in the case. On that point, allow me to read an extract from the charge of Judge David A. Smalley, to the grand jury of the United States district court for the southern district of New York, published in the National Intelligencer of January 21, 1861:

"It is well known that war, civil war, exists in portions of the Union; that persons owing allegiance to the United States have confederated together, and with arms, by force and intimidation, have prevented the execution of the constitutional acts of Congress, have forcibly seized upon and hold a custom-house and post office, forts, arsenals, vessels, and other property belonging to the United States, and have actually fired upon vessels bearing the United States flag and carrying United States troops. This is a usurpation of the authority of the Federal Government; it is high treason by levying war. Either one of those acts will constitute high treason. There can be no doubt of it."

The judge here defines high treason, and he goes on to say:

"What amounts to adhering to and giving aid and comfort to our enemies, it is somewhat difficult in all cases to define; but certain it is that furnishing them with arms"

It really seems that, by some kind of intuition, the judge had in his mind the precise case now under our consideration, and had anticipated it last January—

"certain it is that furnishing them with arms or munitions of war, vessels or other means of transportation, or any materials which will aid the traitors in carrying out their traitorous purposes, with a knowledge that they are intended for such purposes, or inciting and encouraging others to engage in or aid the traitors in any way, does come within the provisions of the act."

In this view, even if we were sitting as a court, bound by the rules and technicalities of judicial proceedings, should we not be bound to hold that this case comes within this legal definition. "And it is immaterial," adds Judge Smalley, "whether such acts are induced by sympathy with the rebellion, hostility to the Government, or a design for gain."

In view of these authorities, let us look at the letter. It was written on the 1st of March, 1861. The opinion of Judge Smalley was published in the Intelligencer of the 21st of January, 1861, and must, of course, have been delivered before that time. It would be doing the Senator's intelligence great injustice to presume that he was not as well informed on the subject as the judge was who was charging the grand jury in reference to an act of Congress passed at an early day in the history of the Government. It would be doing him great injustice to suppose that he was not familiar with the statute. It would be doing him great injustice to suppose that he had not observed the fact that the attention of the country was being called by the courts to the treason that was rampant through-

out the land. The letter complained of is as follows:

WASHINGTON, March 1, 1861.

MY DEAR SIR: Allow me to introduce to your acquaintance my friend Thomas B. Lincoln, of Texas. He visits your capital mainly to dispose of what he regards a great improvement in fire-arms. I recommend him to your favorable consideration as a gentleman of the first respectability, and reliable in every respect.

Very truly yours, JESSE D. BRIGHT.

To His Excellency JEFFERSON DAVIS,
President of the Confederation of States.

According to the charge of Judge Smalley, which I have already read, the flag of the United States had been fired upon before the 21st of January, 1861, and war then did in fact exist. When the rebels were taking our forts; when they were taking possession of our post offices; when they were seizing our custom-houses; when they were taking possession of our mints and the depositories of the public money, can it be possible that the Senator from Indiana did not know that war existed, and that rebellion was going on? It is a fact that the ordinance of the convention of Texas seceding from the Union and attaching herself to the southern confederacy, was dated back as far as the 1st of February, 1861. Then, at the time the letter was written, Thomas B. Lincoln was a citizen of a rebel State; a traitor and a rebel himself. He comes to the Senator asking him to do what? To write a letter by which he could be facilitated in his scheme of selling an improved fire-arm, an implement of war and of death. Can there be any mistake about it? He asks for a letter recommending an improved fire-arm to the president of the rebel States, who was then in actual war; the man who asked for this being himself from a State that was in open rebellion, and he himself a traitor.

Now, sir, if we were a court, how would the case be presented? I know the Constitution says that "no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court." Here is an overt act; it is shown clearly and plainly. "We have the Senator's confession in open Senate that he did write the letter. Shall we with this discretion, in view of the protection of this body and the safety of the Government, decide the case upon special pleas or hunt up technicalities by which the Senator can escape, as you would quash an indictment in a criminal court? The case of John Smith has already been stated to the Senate. A true bill had been found against him for his connection with Burr's treason, but upon a technicality, the proof not being made out according to the Constitution, and Burr having been tried first and acquitted, the bill against Smith was quashed, as he was only an accomplice. He was, therefore, turned out of court; the proceedings against him were quashed upon a technicality; but John Smith was a Senator, and he came here to this body. He came again to take his seat in the Senate of the United States, and what did the Senate do? They took up his case; they investigated it. Mr. Adams made a report, able, full, complete. I may say he came well nigh exhausting the whole subject. The committee reported a resolution for his expulsion, and how did the vote stand? It is true that Mr. Smith was not expelled for the want of some little formality in this body, the vote standing 19 to 10. It only lacked one vote to put him out by a two-third majority according to the requirements of the Constitution. What was the judgment of the nation? It was that John Smith was an accomplice of Burr, and the Senate condemned him and almost expelled him, not narrowing itself down to those rules and technicalities that are resorted to in courts by which criminals escape. To show the grounds upon which the action in that case was based, I beg leave to read some extracts from Mr. John Quincy Adams's report in that case:

"In examining the question whether these forms of judicial proceedings or the rules of judicial evidence ought to be applied to the exercise of that censorial authority which the Senate of the United States possesses over the conduct of its members, let us assume as the test of their application either the dictates of unfeigned reason, the letter and spirit of the Constitution, or precedents domestic or foreign, and your committee believe that the result will be the same: that the power of expelling a member must in its nature be discretionary, and in its exercise always more summary than the tardy process of judicial proceedings.

"The power of expelling a member for misconduct results, on the principles of common sense, from the interests of the nation that the high trust of legislation should be invested in pure hands. When the trust is cloative, it is not

to be presumed that the constituent body will commit the deposit to the keeping of worthless characters. But when a man, whom his fellow-citizens have honored with their confidence on the pledge of a spotless reputation, has degraded himself by the commission of infamous crimes, which become suddenly and unexpectedly revealed to the world, defective, indeed, would be that institution which should be impotent to discard from its bosom the contagion of such a member; which should have no remedy of amputation to apply until the poison had reached the heart."

"But when a member of a legislative body lies under the imputation of gravated offenses, and the determination upon his case can operate only to remove him from a station of extensive powers and important trust, this disproportion between the interest of the public and the interest of the individual disappears; if any disproportion exists, it is of an opposite kind. It is not better that ten traitors should be members of this Senate, than that one innocent man should suffer expulsion. In either case, no doubt, the evil would be great; but in the former, it would strike at the vitals of the nation; in the latter it might, though deeply to be lamented, only be the calamity of an individual."

"Yet in the midst of all this anxious providence of legislative virtue, it has not authorized the constituent body to recall in any case its representative. It has not subjected him to removal by impeachment; and when the daring of the people's choice has become their deadliest foe, can it enter the imagination of a reasonable man, that the sanctuary of their legislation must remain polluted with his presence, until a court of common law, with its pace of snail, can ascertain whether his crime was committed on the right or on the left bank of a river; whether a puncture of difference can be found between the words of the charge and the words of the proof; whether the witnesses of his guilt should or should not be heard by his jury; and whether he was punishable, because present at an overt act, or intangible to public justice because he only contrived and prepared it? Is it conceivable that a traitor to that country which has loaded him with favors, guilty to the common understanding of all mankind, should be suffered to return unquestioned to that post of honor and confidence where, in the zenith of his good fame, he had been placed by the esteem of his countrymen, and in defiance of their wishes, in mockery of their fears, surrounded by the public indignation, but inaccessible to its bolt, pursue the purposes of treason in the heart of the national councils? Must the assembled rulers of the land listen with calmness and indifference, session after session, to the voice of notorious infamy, until the slurred steps of municipal justice can overtake his enormities? Must they tamely see the lives and fortunes of millions, the safety of present and future ages, depending upon his vote; recorded with theirs, merely because the abused benignity of general maxims may have remitted to him the forfeiture of his life?"

"Such, in very supposable cases, would be the unavoidable consequences of a principle which should offer the crutches of judicial tribunals as an apology for crippling the congressional power of expulsion. Far different, in the opinion of your committee, is the spirit of our Constitution. They believed that the very purpose for which this power was given was to preserve the Legislature from the first approaches of infection; that it was made discretionary because it could not exist under the procrustean of general rules. That its process must be summary because it would be rendered nugatory by delay."

Mr. President, suppose Aaron Burr had been a Senator, and after his acquittal he had come back here to take his seat in the Senate, what would have been done? According to the doctrine avowed in this debate, that we must sit as a court and subject the individual to all the rules and technicalities of criminal proceedings, could he have been expelled? And yet is there a Senator here who would have voted to allow Aaron Burr to take a seat in the Senate after his acquittal by a court and jury? No; there is not a Senator here who would have done it. Aaron Burr was tried in court, and he was found not guilty; he was turned loose; but was the public judgment of this nation less satisfied of his guilt than if he had not been acquitted? What is the nation's judgment, settled and fixed? That Aaron Burr was guilty of treason, notwithstanding he was acquitted by a court and jury.

It is said by some Senators that the Senator from Indiana wrote this letter simply as a letter of friendship. Sir, just think of it! A Senator of the United States was called upon to write a letter for a rebel, for a man from a rebel State, after the courts of the country had pronounced that civil war existed; after the judicial tribunals had defined what aiding and adhering to the enemies of the country was! Under such circumstances, what would have been the course of loyalty and of patriotism? Suppose a man who had been acts of kindness, had come to you for such a letter. You would have asked where he was going with it. You would have said: "Here is a southern confederacy; there is a rebellion; my friend, you cannot ask me to write a letter to anybody there; they are at war with the United States; they are at war with my Government; I cannot write you a letter giving you aid and assistance in selling your improved fire-arm there." Why? "Because that fire-arm may be used against my own country and against my own fellow-citizens." Would not that

have been the language of a man who was willing to recognize his obligations of duty to his country?

What was the object of writing the letter? It certainly was to aid, to facilitate the selling of his fire-arms, to inspire the rebel chief with confidence in the individual. It was saying substantially, "I know this man; I write to you because I know you have confidence in me; I send him to you because I know you need fire-arms; you need improved fire-arms; you need the most deadly and destructive weapons of warfare to overcome this great and this glorious country; I recommend him to you, and I recommend his fire-arms; he is a man in whom entire confidence may be placed." That, sir, is the letter. I have already shown the circumstances under which it was written. If such a letter had been written in the purest innocence of intention, with no treasonable design, with no desire to injure his own Government, yet, in view of all the circumstances, in view of the facts which had transpired, a Senator who would be so unthoughtful, and so negligent, and so regardless of his country's interests as to write such a letter, is not entitled to a seat on this floor. [Applause in the galleries.]

The PRESIDING OFFICER, (Mr. SHERMAN.)
Order! Order!

Mr. JOHNSON. Then, Mr. President, what has been the bearing and the conduct of the Senator from Indiana since? I desire it to be understood that I refer to him in no unkindness, for God knows I bear him none; but my duty I will perform. "Duties are mine, consequences are God's." What has been the Senator's bearing generally? Have you heard of his being in the field? Have you heard of his voice and his influence being raised for his bleeding and distracted country? Has his influence been brought to bear officially, socially, politically, or in any respect, for the suppression of the rebellion? If so, I am unaware of it. Where is the evidence of devotion to his country in his speeches and in his votes? Where the evidence of the disposition on his part to overthrow and put down the rebellion? I have been told, Mr. President, by honorable gentlemen, as an evidence of the Senator's devotion to his country and his great opposition to this southern movement, that they heard him, and perhaps with tears in his eyes, remonstrate with the leaders of the rebellion that they should not leave him here in the Senate, or that they should not persist in their course after the relations that had existed between them and him, and the other Democrats of the country; that he thought they were treating him badly. This was the kind of remonstrance he made. Be it so. I am willing to give the Senator credit for all he is entitled to, and I would to God I could credit him with more.

But do Senators remember that when this battle was being fought in the Senate I stood here on this side, solitary and alone, on the 19th day of December, 1860, and proclaimed that the Government was at an end if you denied it the power to enforce its laws? I declared then that a Government which had not the power to coerce obedience on the part of those who violated the law was no Government at all, and had failed to carry out the objects of its creation, and was, *ipso facto*, dissolved. When I stood on this floor and fought the battle for the supremacy of the Constitution and the enforcement of the laws, has the Senate forgotten that a bevy of conspirators gathered in from the other House, and that those who were here crowded around, with frowns and scowls, and expressions of indignation and contempt toward me, because I dared to raise my feeble voice in vindication of the Constitution and the enforcement of the laws of the Union? Have you forgotten the taunts, the jeers, the derisive remarks, the contemptuous expressions that were indulged in? If you have, I have not. If the Senator felt such great reluctance at the departure from the Senate of the chiefs of the rebellion, I should have been glad to receive one encouraging smile from him when I was fighting the battles of the country. I did not receive one encouraging expression; I received not a single sustaining look. It would have been peculiarly encouraging to me, under the circumstances, to be greeted and encouraged by one of the Senator's talents and long standing in public life; but he was cold as an iceberg, and I stood solitary and alone amidst the gang of conspirators that had gathered around me. So much for the Senator's remonstrances and

expressions of regret for the retirement of those gentlemen.

The bearing of the Senator since he wrote this letter has not been unobserved. I have not compared notes; I have not hunted up the record in reference to it; but I have a perfect recollection of it. Did we not see, during the last session of Congress, the line being drawn between those who were devoted to the Union and those who were not? Cannot we sometimes see a great deal more than is expressed? Does it require us to have a man's sentiments written down in burning and blazing characters, before we are able to judge what they are? Has it not been observable all through this history where the true Union heart has stood? What was the Senator's bearing at the last session of Congress? Do we not know that in the main he stood here opposed substantially to every measure which was necessary to sustain the Government in its trial and peril? He may perhaps have voted for some measures that were collateral, remote, indirect in their bearing; but do we not know that his vote and his influence were cast against the measures which were absolutely necessary in order to sustain the Government in its hour of peril?

Some gentlemen have said, and well said, that we should not judge by party. I say so, too. I voted to let the Senator from Indiana into the body, and as a Democrat my bias and prejudice would rather be in his favor. I am a Democrat now; I have been one all my life; I expect to live and die one; and the corner-stone of my Democracy rests upon the enduring basis of the Union. Democrats may come and go, but they shall never divert me from the polar star by which I have ever been guided from early life—the great principles of Democracy upon which this Government rests, and which cannot be carried out without the preservation of the Union of these States. The pretense hitherto employed by many who are now in the traitors' camp has been, "we are for the Union; we are not for dissolution; but we are opposed to coercion." How long, Senators, have you heard that syren song sung? Where are now most of those who sang those syren tones to us? Look back to the last session, and inquire where now are the men who then were singing that song in our ears? Where is Truett Polk, who then stood here so gently craving for peace? He is in the rebel camp. Where is John C. Breckinridge—a man for whose promotion to the Presidency I did what I could physically, mentally, and pecuniarily; but when he satisfied me that he was for breaking up this Government, and would ere long be a traitor to his country, I dropped him as I would the Senator from Indiana? He was here at the last session of Congress; and everybody could see then that he was on the road to the traitors' camp. Instead of sustaining the Government, he, too, was crying out for peace; but he was bitter against "Lincoln's Government." Sir, when I talk about preserving this great Government, I do not have its executive officer in my mind. The executive head of the Government comes in and goes out of office every four years. He is the mere creature of the people. I talk about the Government without regard to the particular executive officers who have charge of it. If they do well, we can continue them; if they do wrong, we can turn them out. Mr. Lincoln having come in according to the forms of law and the Constitution, I, loving my Government and the Union, felt it to be my duty to stand by the Government, and to stand by the Administration in all those measures that I believed to be necessary and proper for the preservation and perpetuation of the Union.

Mr. Polk has gone; Mr. Breckinridge has gone; my namesake, the late Senator from Missouri, has gone. Did you not see the line of separation at the last session? Although Senators make speeches, in which they give utterance to disclaimers, we can see their bearing. It is visible now; and the obligations of truth and duty to my country require me to speak of it. I believe there are treasonable tendencies here now; and how long it will be before they will land in the traitors' camp, I shall not undertake to say. The great point with these gentlemen is, that they are opposed to coercion and to the enforcement of the laws. Without regard to the general bearing of the Senator from Indiana upon that point, let me quote the conclusion of his letter of the 7th of September, 1861, to J. Fitch. I will read only the concluding

portion of the letter, as it does him no injustice to omit the remainder:

"And hence I have opposed, and so long as my present convictions last shall continue to oppose, the entire coercive policy of the Government. I hope this may be satisfactory to my friends. For my enemies I care not."

Does not this correspond with the Senator's general bearing? Has he given his aid or countenance or influence, in any manner, towards the efforts of the Government to sustain itself? What has been his course? We know that great stress has been laid upon the word "coercion," and it has been played upon effectually for the purpose of prejudicing the southern mind, in connection with that other term, "subjugation of the States," which has been used so often. We may as well be honest and fair, and admit the truth of the great proposition, that a Government cannot exist—in other words, it is no Government if it is without the power to enforce its laws and coerce obedience to them. That is all there is of it; and the very instant you take that power from this Government, it is at an end; it is a mere rope of sand that will fall to pieces of its own weight. It is idle, utopian, chimerical, to talk about a Government existing without the power to enforce its laws. How is the Government to enforce its laws? The Constitution says that Congress shall have power "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions." Let me ask the Senator from Indiana, with all his astuteness, how is rebellion to be put down, how is it to be resisted, unless there is some power in the Government to enforce its laws?

If there be a citizen who violates your post office laws, who counterfeits the coin of the United States, or who commits any other offense against the laws of the United States, you subject him to trial and punishment. Is not that coercion? Is not that enforcing the laws? How is rebellion to be put down without coercion, without enforcing the laws? Can it be done? The Constitution provides that,

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

How is this Government to put down domestic violence in a State without coercion? How is the nation to be protected against insurrection without coercing the citizens to obedience? Can it be done? When the Senator says he is against the entire coercive policy of the Government, he is against the vital principle of all government. I look upon this as the most revolutionary and destructive doctrine that ever was preached. If this Government cannot call forth the militia, if it cannot repel invasion, if it cannot put down domestic violence, if it cannot suppress rebellion, I ask if the great objects of the Government are not at an end?

Look at my own State, by way of illustration. There is open rebellion there; there is domestic violence; there is insurrection. An attempt has been made to transfer that State to another power. Let me ask the Senator from Indiana if the Constitution does not require you to guaranty us a republican form of government in that State? Is not that your sworn duty? We ask you to put down this unholy rebellion. What answer do you give us? We ask you to protect us against insurrection and domestic violence. What is the reply? "I am against your whole coercive policy; I am against the enforcement of the laws." I say that if that principle be acted on, your Government is at an end; it fails utterly to carry out the object of its creation. Such a principle leads to the destruction of the Government, for it must inevitably result in anarchy and confusion. "I am opposed to the entire coercive policy of the Government," says the Senator from Indiana. That cuckoo note has been reiterated to satiety; it is understood; men know the nature and character of their Government, and they also know that "coercion" and "subjugation" is mere *ad captandum*, idle and unmeaning slangswanging.

Sir, I may be a little sensitive on this subject upon the one hand, while I know I want to do ample justice upon the other. I took an oath to support the Constitution of the United States. There is rebellion in the land; there is insurrection against the authority of this Government. Is the Senator from Indiana so unobservant or so obtuse that he does not know now that there has

been a deliberate design for years to change the nature and character and genius of this Government? Do we not know that these schemers have been deliberately at work, and that there is a party in the South, with some associates in the North, and even in the West, that have become tired of free government, in which they have lost confidence? They raise an outcry against "coercion," that they may paralyze the Government, cripple the exercise of the great powers with which it was invested, finally to change its form and subject us to a southern despotism. Do we not know it to be so? Why disguise this great truth? Do we not know that they have been anxious for a change of Government for years? Since this rebellion commenced it has manifested itself in many quarters. How long is it since the organ of the government at Richmond, the Richmond Whig, declared that rather than live under the Government of the United States, they preferred to take the constitutional Queen of Great Britain as their protector; that they would make an alliance with Great Britain for the purpose of preventing the enforcement of the laws of the United States? Do we not know this? Why then play "hide and go seek?" Why say, "oh, yes, I am for the Union," while every act, influence, conversation, vote is against it? What confidence can we have in one who takes such a course?

The people of my State, downtrodden and oppressed by the iron heel of southern despotism, appeal to you for protection. They ask you to protect them against domestic violence. They want you to help them to put down this unholy and damnable rebellion. They call upon this Government for the execution of its constitutional duty to guaranty to them a republican form of Government, and to protect them against the tyranny and despotism which is stalking abroad. What is the cold reply? "I am against the entire coercive policy; I am not for enforcing the laws." Upon such a doctrine Government crumbles to pieces, and anarchy and despotism reign throughout the land.

Indiana, God bless her, is as true to the Union as the needle is to the pole. She has sent out her "columns;" she has sent her thousands into the field, for what? To sustain the Constitution, and to enforce the laws; and as they march with strong arms and brave hearts to relieve a suffering people, who have committed no offense save devotion to this glorious Union; as they march to the rescue of the Constitution and to extend its benefits again to a people who love it dearly, and who have been ruthlessly torn from under its protecting ægis, what does their Senator say to them? "I am against the entire policy of coercion." Do you ever hear a Senator who thus talks make any objection to the exercise of unconstitutional and tyrannical power by the so-called southern confederacy, or say a word against its practice of coercion? In all the speeches that have been delivered on that point, has one sentence against usurpation, against despotism, against the exercise of doubtful and unconstitutional powers by that confederacy, been uttered? Oh, no! Have you heard any objection to their practicing not only coercion but usurpation? Have they not usurped government? Have they not oppressed, and are they not now tyrannizing over the people? The people of my State are coerced, borne down, trodden beneath the iron heel of power. We appeal to you for protection. You stand by and see us coerced; you stand by and see tyranny triumphing, and no sympathy, no kindness, no helping hand can be extended to us. Your Government is paralyzed; your Government is powerless; that which you have called a Government is a dream, an idle thing. You thought you had a Government, but you have none. My people are appealing to you for protection under the Constitution. They are arrested by hundreds and by thousands; they are dragged away from their homes and incarcerated in dungeons. They ask you for protection. Why do you not give it? Some of them are lying chained in their lowly prison-house. The only response to their murmur is the rattling and clanking of the chains that bind their limbs. The only response to their appeals is the grating of the hinges of their dungeon. When we ask for help under the Constitution, we are told that the Government has no power to enforce the laws. Our people are oppressed and downtrodden, and you give them no remedy.

They were taught to love and respect the Constitution of the United States. What is their condition to-day? They are hunted and pursued like the beasts of the forest by the secession and disunion hordes who are enforcing their doctrine of coercion. They are shot or hung for no crime save a desire to stand by the Constitution of the United States. Helpless children and innocent females are murdered in cold blood. Our men are hung and their bodies left upon the gibbet. They are shot and left lying in the gorges of the mountains, not even thrown into the caves there to lie, but are left exposed to pass through all the loathsome stages of decomposition, or to be devoured by the birds of prey. We appeal for protection, and are told by the Senator from Indiana and others, "we cannot enforce the laws; we are against the entire coercive policy." Do you not hear their groans? Do you not hear their cries? Do you not hear the shrieks of oppressed and down-trodden women and children? Sir, their tones ring out so loud and clear that even listening angels look from heaven in pity.

I will not pursue this idea further, for I perceive that I am consuming more time than I intended to occupy. I think it is clear and conclusive, without going further into the discussion, that the Senator from Indiana has sympathized with the rebellion. The conclusion is fixed upon my mind that the Senator from Indiana has disqualified himself, has incapacitated himself to discharge the duties in this body of a loyal Senator. I think it is clear that, even if we were a court, we should be bound to convict him; but I do not narrow the case down to the close rules that would govern a court of justice.

But, sir, in the course of the discussion one palliating fact was submitted by the distinguished Senator from New Jersey, [Mr. TEN EYCK,] and he knows that I do not refer to him in any spirit of unkindness. There was more of legal learning and special pleading in his suggestion than solidity or sound argument. He suggested that there was no proof that this letter had ever been delivered to Jefferson Davis, and that therefore the Senator from Indiana ought not to be convicted. Well, sir, on the other hand, there is no proof that it was not delivered. It is true, the letter was found in Mr. Lincoln's possession; but who knows that Davis did not read the letter, and hand it back to Lincoln? It may have been that, being from his early friend, a man whom he respected, Lincoln desired to keep the letter and show it to somebody else. We have as much right to infer that the letter was delivered as that it was not; but be that as it may, does it lessen the culpability of the Senator from Indiana? He committed the act, and so far as he was concerned it was executed. It would be no palliation of his offense if the man did not deliver the letter to Davis. The intent and the act were just as complete as if it had been delivered.

During the war of the Revolution, in 1780, Major André, a British spy, held a conference with Benedict Arnold. Arnold prepared his letters, six in number, and they were handed over to Major André, who put them between the soles of his feet and his stockings, and he started on his way to join Sir Henry Clinton. Before he reached his destination, however, John Paulding and his two associates arrested Major André. They pulled off his boots and his stockings, and they got the papers; they kept them, and Major André was tried and hung as a spy. Arnold's papers were not delivered to Sir Henry Clinton; but is there anybody here who doubts that Arnold was a traitor? Has public opinion ever changed upon that subject? He was not convicted in a court, nor were the treasonable dispatches which were to expose the condition of West Point, and make the British attack upon it easy and successful, ever delivered to Sir Henry Clinton, and yet André was hung as a spy. Because Sir Henry Clinton did not receive the treasonable documents was the guilt of Benedict Arnold any the less? I do not intend to argue this question in a legal way; I simply mention this circumstance by way of illustration of the point which has been urged in the present case, and leave it for the public judgment to determine.

Sir, it has been said by the distinguished Senator from Delaware [Mr. SAULSBURY] that the questions of controversy might all have been settled by compromise. He dealt rather extensively in the party aspect of the case, and seemingly desired to throw the onus of the present condition of

affairs entirely on one side. He told us that if so and so had been done these questions could have been settled, and that now there would have been no war. He referred particularly to the resolution offered during the last Congress by the Senator from New Hampshire, [Mr. CLARK,] and upon the vote on that he based his argument. I do not mean to be egotistical, but if he will give me his attention I intend to take the staple out of that speech, and show how much of it is left on that point.

The speech of the Senator from Delaware was a very fine one. I have not the power, as he has, to con over and get by vote, and memorize handsomely rounded periods, and make a great display of rhetoric. It is my misfortune that I am not so skilled. I have to seize on fugitive thoughts as they pass through my mind, make the best application of them I can, and express them in my own crude way. I am not one of those who prepare rounding, sounding, bounding rhetorical flourishes, read them over twenty times before I come into the Senate Chamber, make a great display, and have it said, "Oh, that is a fine speech!" I have heard many such fine speeches; but when I have had time to follow them up, I have found that it never took long to analyze them, and reduce them to their original elements; and that when they were reduced, there was not very much of them. [Laughter.]

The Senator told us that the adoption of the Clark amendment to the Crittenden resolutions defeated the settlement of the questions of controversy; and that, but for that vote, all could have been peace and prosperity now. We were told that the Clark amendment defeated the Crittenden compromise, and prevented a settlement of the controversy. On this point I will read a portion of the speech of my worthy and talented friend from California, [Mr. LATHAM,] and when I speak of him thus, I do it in no unmeaning sense. I intend that he, not I, shall answer the Senator from Delaware. I know that sometimes, when gentlemen are fixing up their pretty rhetorical flourishes, they do not take time to see all the sharp corners they may encounter. If they can make a readable sentence, and float on in a smooth, easy stream, all goes well, and they are satisfied. As I have said, the Senator from Delaware told us that the Clark amendment was the turning-point in the whole matter; that from it had flowed rebellion, revolution, war, the shooting and imprisonment of people in different States—perhaps he meant to include my own. This was the Pandora's box that has been opened, out of which all the evils that now afflict the land have flown. Thank God I still have hope that all will yet be saved. My worthy friend from California, [Mr. LATHAM,] during the last session of Congress, made one of the best speeches he ever made. I bought five thousand copies of it for distribution, but I had no constituents to send them to, [laughter,] and they have been lying in your document-room ever since, with the exception of a few, which I thought would do good in some quarters. In the course of that speech, upon this very point, he made use of these remarks:

"Mr. President, being last winter a careful eye-witness of all that occurred, I soon became satisfied that it was a deliberate, willful design, on the part of some representatives of southern States, to seize upon the election of Mr. Lincoln merely as an excuse to precipitate this revolution upon the country. One evidence, to my mind, is the fact that South Carolina never sent her Senators here."

Then they certainly were not influenced by the Clark amendment.

"An additional evidence is, that when gentlemen on this floor, by their votes, could have controlled legislation, they refused to cast them for fear that the very propositions submitted to this body might have an influence in changing the opinions of their constituencies. Why, sir, when the resolutions submitted by the Senator from New Hampshire [Mr. CLARK] were offered as an amendment to the Crittenden propositions, for the manifest purpose of embarrassing the latter, and the vote taken on the 16th of January, 1861, I ask, what did we see? There were fifty-five Senators at that time upon this floor in person. The Globe of the second session, Thirty-Sixth Congress, part 1, page 309, shows that upon the call of the yeas and nays immediately preceding the vote on the substituting of Mr. CLARK'S amendment, there were fifty-five votes cast. I will read the vote from the Globe:

"YEAS—Messrs. Anthony, Baker, Bingham, Cameron, Chandler, Clark, Collamer, Dixon, Doollittle, Durkee, Fessenden, Foot, Foster, Grimes, Hale, Harlan, King, Seward, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wilson—25.

"NAYS—Messrs. Bayard, Benjamin, Bigler, Bragg, Bright, Clingman, Crittenden, Douglas, Fitch, Green, Gwin, Hemphill, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Lane, Latham, Mason,

Nicholson, Pearce, Polk, Powell, Pugh, Rice, Saulsbury, Sebastian, Silldell, and Wigfall—30.

"The vote being taken immediately after on the Clark proposition, was as follows:

"YEAS—Messrs. Anthony, Baker, Bingham, Cameron, Chandler, Clark, Collamer, Dixon, Doollittle, Durkee, Fessenden, Foot, Foster, Grimes, Hale, Harlan, King, Seward, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wilson—25.

"NAYS—Messrs. Bayard, Bigler, Bragg, Bright, Clingman, Crittenden, Fitch, Green, Gwin, Hunter, Johnson of Tennessee, Kennedy, Lane, Latham, Mason, Nicholson, Pearce, Polk, Powell, Pugh, Rice, Saulsbury, and Sebastian—33.

"Six Senators retained their seats and refused to vote, thus themselves allowing the Clark proposition to supplant the Crittenden resolution by a vote of twenty-five to twenty-three. Mr. Benjamin of Louisiana, Mr. Hemphill and Mr. Wigfall, of Texas, Mr. Iverson of Georgia, Mr. Johnson of Arkansas, and Mr. Silldell of Louisiana, were in their seats, but refused to cast their votes."

I sat right behind Mr. Benjamin, and I am not sure that my worthy friend was not close by, when he refused to vote, and I said to him, "Mr. Benjamin, why do you not vote? Why not save this proposition and see if we cannot bring the country to it?" He gave me rather an abrupt answer, and said he would control his own action without consulting me or anybody else. Said I, "vote, and show yourself an honest man." As soon as the vote was taken, he and others telegraphed South, "We cannot get any compromise." Here were six southern men refusing to vote, when the amendment would have been rejected by four majority if they had voted. Who, then, has brought these evils on the country? Was it Mr. CLARK? He was acting out his own policy; but with the help we had from the other side of the Chamber, if all those on this side had been true to the Constitution and faithful to their constituents, and had acted with fidelity to the country, the amendment of the Senator from New Hampshire could have been voted down, the defeat of which the Senator from Delaware says would have saved the country. Whose fault was it? Who is responsible for it? I think that is not only getting the nail through, but clenching it on the other side, and the whole staple commodity is taken out of the speech. Who did it? Southern traitors, as was said in the speech of the Senator from California. They did it. They wanted no compromise. They accomplished their object by withholding their votes; and hence the country has been involved in the present difficulty. Let me read another extract from this speech of the Senator from California:

"I recollect full well the joy that pervaded the faces of some of those gentlemen at the result, and the sorrow manifested by the venerable Senator from Kentucky, [Mr. CRITTENDEN.] The record shows that Mr. Pugh, from Ohio, despairing of any compromise between the extremes of ultra-Republicanism and disunionists, working manifestly for the same end, moved, immediately after the vote was announced, to lay the whole subject on the table. If you will turn to page 443, same volume, you will find, when, at a late period, Mr. Cameron, from Pennsylvania, moved to reconsider the vote, appeals having been made to sustain those who were struggling to preserve the peace of the country, that the vote was reconsidered; and when, at last, the Crittenden propositions were submitted on the 2d day of March, these southern States having nearly all seceded, they were then lost by but one vote. Here is the vote:

"YEAS—Messrs. Bayard, Bigler, Bright, Crittenden, Douglas, Gwin, Hunter, Johnson of Tennessee, Kennedy, Lane, Latham, Mason, Nicholson, Polk, Pugh, Rice, Sebastian, Thomson, and Wigfall—19.

"NAYS—Messrs. Anthony, Bingham, Chandler, Clark, Dixon, Doollittle, Durkee, Fessenden, Foot, Foster, Grimes, Harlan, King, Morrill, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wilson—20."

"If these seceding southern Senators had remained, there would have passed, by a large vote, (as it did without them,) an amendment, by a two-third vote, forbidding Congress ever interfering with slavery in the States. The Crittenden proposition would have been indorsed by a majority vote, the subject finally going before the people, who have never yet, after consideration, refused justice, for any length of time, to any portion of the country.

"I believe more, Mr. President, that these gentlemen were acting in pursuance of a settled and fixed plan to break up and destroy this Government."

When we had it in our power to vote down the amendment of the Senator from New Hampshire, and adopt the Crittenden resolutions, certain southern Senators prevented it; and yet, even at a late day of the session, after they had seceded, the Crittenden proposition was only lost by one vote. If rebellion and bloodshed and murder have followed, to whose skirts does the responsibility attach? I summed up all these facts myself in a speech during the last session; but I have preferred to read from the speech of the Senator from California, he being better authority, and having presented the facts better than I could.

What else was done at the very same session? The House of Representatives passed, and sent

to this body, a proposition to amend the Constitution of the United States, so as to prohibit Congress from ever hereafter interfering with the institution of slavery in the States, making that restriction a part of the organic law of the land. That constitutional amendment came here after the Senators from seven States had seceded; and yet it was passed by a two-third vote in the Senate. Have you ever heard of any one of the States which had then seceded, or which has since seceded, taking up that amendment to the Constitution, and saying they would ratify it, and make it a part of that instrument? No. Does not the whole history of this rebellion tell you that it was revolution that the leaders wanted, that they started for, that they intended to have? The facts to which I have referred show how the Crittenden proposition might have been carried; and when the Senators from the slave States were reduced to one fourth of the members of this body, the two Houses passed a proposition to amend the Constitution, so as to guaranty to the States perfect security in regard to the institution of slavery in all future time, and prohibiting Congress from legislating on the subject.

But what more was done? After southern Senators had treacherously abandoned the Constitution and deserted their posts here, Congress passed bills for the organization of three new Territories, Dakota, Nevada, and Colorado; and in the sixth section of each of those bills, after conferring, affirmatively, power on the Territorial Legislature, it went on to exclude certain powers by using a negative form of expression; and it provided, among other things, that the Legislature should have no power to legislate so as to impair the right to private property; that it should lay no tax discriminating against one description of property in favor of another; leaving the power on all these questions not in the Territorial Legislature, but in the people when they should come to form a State constitution.

Now, I ask, taking the amendment to the Constitution, and taking the three territorial bills, embracing every square inch of territory in the possession of the United States, how much of the slavery question was left? What better compromise could have been made? Still we are told that matters might have been compromised, and that if we had agreed to compromise, bloody rebellion would not now be abroad in the land. Sir, southern Senators are responsible for it. They stood here with power to accomplish the result, and yet treacherously, and, I may say, tauntingly, they left this Chamber, and announced that they had dissolved their connection with the Government. Then, when we were left in the hands of those whom we had been taught to believe would encroach upon our rights, they gave us, in the constitutional amendment and in the three territorial bills, all that had ever been asked; and yet gentlemen talk about compromise. Why was not this taken and accepted? No; it was not compromise that the leaders wanted; they wanted power; they wanted to destroy this Government, so that they might have place and emolument for themselves. They had lost confidence in the intelligence and virtue and integrity of the people, and their capacity to govern themselves; and they intended to separate and form a government, the chief cornerstone of which should be slavery, disfranchising the great mass of the people, of which we have seen constant evidence, and merging the powers of government in the hands of the few. I know what I say. I know their feelings and their sentiments. I served in the Senate here with them. I know they were a close corporation, that had no more confidence in or respect for the people than has the dey of Algiers. I fought that close corporation here. I knew that they were no friends of the people. I knew that Slidell and Mason and Benjamin and Iverson and Toombs were the enemies of free government, and I know so now. I commenced the war upon them before a State seceded; and I intend to keep on fighting this great battle before the country for the perpetuity of free government. They seek to overthrow it, and to establish a despotism in its place. That is the great battle which is upon our hands. The great interests of civil liberty and free government call upon every patriot and every lover of popular rights to come forward and discharge his duty.

We see this great struggle; we see that the exercise of the vital principle of government itself is de-

nied by those who desire our institutions to be overthrown and despotism established on their ruins. If we have not the physical and moral courage to exclude from our midst men whom we believe to be unsafe depositors of public power and public trust—men whose associates were rolling off honied accents against coercion, and are now in the traitor's camp—if we have not the courage to force these men from our midst, because we have known them, and have been personal friends with them for years, we are not entitled to sit here as Senators ourselves. Can you expect your brave men, your officers and soldiers that are now in "the tented field," subject to all the hardships and privations pertaining to a civil war like this, to have courage, and to march on with patriotism to crush treason on every battle-field, when you have not the courage to expel it from your midst? Set those brave men an example; say to them by your acts and voice that you evidence your intention to put down traitors in the field by ejecting them from your midst, without regard to former associations.

I do not say these things in unkindness. I say them in obedience to duty, a high constitutional duty that I owe to my country; yes, sir, that I owe to my wife and children. By your failure to exercise the powers of this Government, by your failure to enforce the laws of the Union, I am separated from those most dear to me. Pardon me, sir, for this personal allusion. My wife and children have been turned into the street, and my house has been turned into a barracks, and for what? Because I stand by the Constitution and the institutions of the country that I have been raised to love, respect, and venerate. This is my offense. Where are my sons-in-law? One to-day is lying in prison; another is forced to fly to the mountains to evade the pursuit of the hell-born and hell-bound conspiracy of disunion and secession; and when their cries come up here to you for protection, we are told, "No; I am against the entire coercive policy of the Government."

The speech of the Senator from California the other day had the effect in some degree, and seemed to be intended to give the question a party tinge. If I know myself—although, as I avowed before, I am a Democrat, and expect to live and die one—I know no party in this great struggle for the existence of my country. The argument presented by the Senator from California was, that we need not be in such hot pursuit of Mr. BRIGHT, or those Senators who entertain his sentiments, who are still here, because we had been a little dilatory in expelling other traitorous Senators heretofore, and he referred us to the resolution of the Senator from Maine, [Mr. FESSENDEN,] which was introduced at the special session in March last, declaring that certain Senators having withdrawn, and their seats having thereby become vacant, the Secretary should omit their names from the roll of the Senate. I know there seemed to be a kind of timidity, a kind of fear, to make use of the word "expel" at that time; but the fact that we declared the seats vacant, and stopped there, did not preclude us from afterwards passing a vote of censure. The resolution, which was adopted in March, merely stated the fact that Senators had withdrawn, and left their seats vacant. At the next session a resolution was introduced to expel the other Senators from the seceded States who did not attend in the Senate; and my friend [Mr. LATAM] moved to strike out of that very resolution the word "expelled," and insert "vacated;" so that I do not think he ought to be much offended at it. I simply allude to it to show how easy it is for us to forget the surrounding circumstances that influenced our action at the time it took place. We know that a year ago there was a deep and abiding hope that the rebellion would not progress as it has done; that it would cease; and that there might be circumstances which, at one time, would to some extent justify us in allowing a wide margin which, at another period of time, would be wholly unjustifiable.

All this, however, amounts to nothing. We have a case now before us that requires our action, and we should act upon it conscientiously in view of the facts which are presented. Because we neglected to expel traitors before, and omitted to have them arrested, and permitted them to go away freely, and afterwards declared their seats vacant because they had gone, we are not now prevented from expelling a Senator who is not worthy to be

in the Senate. I do not say that other traitors may not be punished yet. I trust in God the time will come, and that before long, when these traitors can be overtaken in the aggregate, and we may mete out to them condigno punishment; such as their offense deserves. I know who was for arresting them. I know who declared their conduct to be treason. Here in their midst I told them it was treason, and they might make the best of it they could.

Sir, to sum up the argument, I think there is but little in the point presented by the Senator from New Jersey, of there being no proof of the reception of the letter; and I think I have extracted the staple commodity entirely out of the speech of the Senator from Delaware; and so far as the force of the argument based upon the Senate having at one session expelled certain members, while at the previous session it only vacated their seats, I think the Senator from California answers that himself. As to the polished and ingenious statement of the case made by the Senator from New York, [Mr. HARRIS,] I think I have answered that by putting the case upon a different basis from that presented by him, and which seems to control his action.

Mr. President, I have alluded to the talk about compromise. If I know myself, there is no one who desires the preservation of this Government more than I do; and I think I have given as much evidence as mortal man could give of my devotion to the Union. My property has been sacrificed; my wife and children have been turned out of doors; my sons have been imprisoned; my son-in-law has had to run to the mountains; I have sacrificed a large amount of bonds in trying to give some evidence of my devotion to the Government under which I was raised. I have attempted to show you that on the part of the leaders of this rebellion there was no desire to compromise—compromise was not what they wanted; and now the great issue before the country is the perpetuation or the destruction of free Government. I have shown how the resolution of the venerable Senator from Kentucky [Mr. CRITTENDEN] was defeated, and that southern men are responsible for that defeat—six sitting in their places and refusing to vote. His proposition was only lost by two votes; and in the end, when the seceders had gone, by only one. Well do I remember, as was described by the Senator from California, the sadness, the gloom, the anguish that played over his venerable face when the result was announced; and I went across the Chamber, and told him that here were men refusing to vote, and that to me was administered a rebuke by one of them for speaking to him on the subject.

Now, the Senator from Delaware tells us that if that compromise had been made, all those consequences would have been avoided. It is a mere pretense; it is false. Their object was to overturn the Government. If they could not get the control of this Government, they were willing to divide the country and govern a part of it. Talk not of compromise now. What, sir, compromise with traitors with arms in their hands! Talk about "our southern brethren" when they lay their swords at your throat and their bayonets at your bosoms! Is this a time to talk about compromise? Let me say, and I regret that I have to say it, that there is but one way to compromise this matter, and that is to crush the leaders of this rebellion and put down treason. You have got to subdue them; you have got to conquer them; and nothing but the sacrifice of life and blood will do it. The issue is made. The leaders of rebellion have decreed eternal separation between you and them. Those leaders must be conquered, and a new set of men brought forward who are to vitalize and develop the Union feeling in the South. You must show your courage here as Senators, and impart it to those who are in the field. If you were now to compromise they would believe that they could whip you one to five, and you could not live in peace six months, or even three months. Settle the question now; settle it well; settle it finally; crush out the rebellion and punish the traitors. I want to see peace, and I believe that is the shortest way to get it. Blood must be shed, life must be sacrificed, and you may as well begin at first as last. I only regret that the Government has been so tardy in its operations. I wish the issue had been met sooner. I believe that if we had seen as much in the beginning as we see to-day, this

rebellion would have been wound up and peace restored to the land by this time.

But let us go on; let us encourage the Army and the Navy; let us vote the men and the means necessary to vitalize and to bring into requisition the enforcing and coercive power of the Government; let us crush out the rebellion, and anxiously look forward to the day—God grant it may come soon—when that baleful comet of fire and of blood that now hovers over this distracted people may be chased away by the benignant star of peace. Let us look forward to the time when we can take the flag, the glorious flag of our country, and nail it below the cross, and there let it wave as it waved in the olden time, and let us gather around it, and inscribe as our motto, "Liberty and Union, one and inseparable, now and forever." Let us gather around it, and while it hangs floating beneath the cross, let us exclaim, "Christ first, our country next." Oh, how gladly rejoiced I should be to see the dove returning to the ark with the fig leaf, indicating that land was found, and that the mighty waters had abated. I trust the time will soon come when we can do as they did in the olden times, when the stars sang together in the morning and all creation proclaimed the glory of God. Then let us do our duty in the Senate and in the councils of the nation, and thereby stimulate our brave officers and soldiers to do theirs in the field.

Mr. President, I have occupied the attention of the Senate much longer than I intended. In view of the whole case, without personal unkind feeling towards the Senator from Indiana, I am of opinion that duty to myself, duty to my family, duty to the Constitution, duty to the country, obedience to the public judgment, require me to cast my vote to expel Mr. BRIGHAM from the Senate, and when the occasion arrives I shall so record my vote.

Mr. FOSTER. Mr. President, as a member of the Judiciary Committee, to whom this resolution was referred, I concurred in the result at which they arrived. That result was, that this resolution ought not to pass. In that action I was influenced, I may say controlled, by the course adopted by the Senate in the month of March last, when they had under consideration the case of Mr. Davis in the resolution then adopted, and the case of Mr. Wigfall. In the case of Mr. Davis and those named with him in the resolution, action in the Senate was had on the 14th of March; in the case of Mr. Wigfall the action was had on the 12th of March. In the case of Mr. Davis, he and those named with him in the resolution, Messrs. Mallory, Brown, Clay, Toombs, and Benjamin, were absent from the Senate, and the resolution declared their seats to be vacated by their absence, and therefore directed the Clerk to omit calling their names on the roll of the Senate.

It is true that this action did not, except by implication, indicate that the judgment of the Senate was that those members should not be expelled. Being already absent, there was no occasion to expel them in order to be rid of their presence, and as has been suggested, the resolution therefore simply asserted the fact, and directed the Clerk, as a consequence of that fact, to omit their names in the roll of the Senate. Still, sir, by implication, I think it was then apparently the judgment of the Senate that those members ought not to be expelled. At all events, in the case of Mr. Wigfall the action of the Senate was quite unequivocal. The resolution for his expulsion was originally introduced on the 6th of March; it received the final action of the Senate on the 12th, and that action was, to refer the resolution to the Committee on the Judiciary. It was understood, I believe very generally in the Senate, that the object of the reference was to get rid of the resolution without voting directly upon it, the Senate not being prepared to pass it. Mr. Wigfall was then here, taking part in our action both in open and secret session, daily flaunting his treason in our faces, openly, defiantly, insultingly. I find his name recorded in the list of yeas and nays on the 23d, and we adjourned on the 28th, of March.

The letter which is the evidence of the disloyalty of the Senator from Indiana was written on the 1st of March, and this action of the Senate was, as I have stated, on the 12th and the 14th of the same month. In the committee I considered these proceedings in the light of a precedent, and I felt that a decent respect for the opinion of the Senate, expressed under such circumstances, should lead

me to the result to which I came in the committee. I could scarcely suppose that the Senate would expel the Senator from Indiana for writing a letter to Mr. Davis on the 1st of March, and be unprepared to expel Mr. Davis and Mr. Wigfall on the 12th and 14th.

The resolution comes back from the committee to the Senate, accompanied by the report, and it is apparent that the Senate do not regard the action had in the cases to which I have referred as precedents to control or influence their action in this case. They either regard that action as furnishing no precedent, or have resolved to overrule it and decide against it.

Now, sir, the action of the Senate in the case of Mr. Davis and those named with him in the resolution of the 14th of March, and in the case of Mr. Wigfall, on the 12th of March, are not precedents, if precedents at all, which I aided in making. I was in no sense a party to them except as a member of the Senate, opposed to them. I introduced the resolution to expel Mr. Wigfall. I thought then and think still—certainly nothing has since occurred to change, much to confirm my opinion—that the action of the Senate at that time was impolitic, and wrong, unjust to ourselves and the country—not such as the occasion demanded. We ought at that time promptly to have expelled all the members without hesitation; but the Senate thought otherwise, not a man, save myself, breathed a word even against Mr. Wigfall; and I, of course, yielded to their better judgment.

Under these circumstances, I certainly feel at liberty to adopt the policy which in March I deemed to be the only fit and proper policy for the Senate to pursue, and to act now as I would have acted then. I am prepared on all questions involving the loyalty of our members, not, I hope, to act illiberally or unjustly, but to act decidedly and firmly, I hope courageously, if there is any question of courage involved. I confess that in light of the whole transaction, considering these precedents of the Senate to which I have alluded as being either not applicable, (which I did consider them in committee,) or if applicable, as overruled by the sense of the Senate, I feel prepared to vote, and shall vote for the passage of the resolution.

Mr. KENNEDY. Mr. President, I have but very few words to submit upon this resolution. I do not desire to enter at length into this debate, which has already assumed a very broad and wide field. Much has been assumed as fact that I think is not entitled to that weight, as if sustained by positive evidence against the Senator. I have voted invariably for the expulsion of all the Senators from the seceded States who have committed an overt act of treason. I have endeavored to place myself right upon the record, and have stated that in voting for the expulsion of those gentlemen, I so acted because they had placed themselves in opposition to the authority of the Government. In this particular case I intend to rest my own vote upon the action of the Committee on the Judiciary, as well as on one or two facts that are connected with the charges made against the Senator from Indiana.

I will premise my remarks, before going further into the subject, by saying that I have always belonged to the old Whig party, and I still adhere to the principles of that party. I am here almost without any affiliation in political sentiment, except with the distinguished Senator from Kentucky, [Mr. DAVIS.] I was a member of the national executive Union committee that advocated the election of Hon. John Bell. I joined at that time with the venerable member of the other House, late a Senator upon this floor, [Mr. CRITTENDEN,] in the advocacy of the principles and nominees of that particular party. I stood with the distinguished Senator from Kentucky, [Mr. DAVIS,] giving my humble support to the election of Bell and Everett. I allude to that fact simply because my worthy and distinguished friend, with whom I have politically acted and with whose Union sentiments I fully and entirely concur, has, I think, assumed a principle in his action on this case that is not warranted altogether by the truth of history. What I say to that Senator, I say in the most perfect spirit of kindness and frankness. I have no other feeling than that of admiration and respect for his character and for his long services. I am not aware that, ex-

cept upon this particular occasion, I have ever had cause to differ from him in his political views or dogmas.

My honorable and distinguished friend has made certainly a very able and a very elaborate speech, covering very broad ground, both of duty to the Government and of rebuke to gentlemen occupying seats upon this floor, foreign entirely, in my judgment, to the question of the seat of the Senator from Indiana. My distinguished friend has assumed a fact that I do not think a subsequent statement that I shall make warrants him in enforcing upon the attention of the Senate, to the injury and detriment of the Senator from Indiana. He has argued for two or three whole columns upon the assumption that, because the honorable Senator from Indiana had been the political associate and the friend of some of the leading conspirators, as he has called them, who went from this Chamber, and are now in arms against the authority of the Government, he must have known the fact that they contemplated their treason, and that they and their party nominated John C. Breckinridge, in the the last presidential contest, for the avowed purpose of electing Lincoln, and thereby giving them the pretext to go out of the Union, and that he sanctioned that act.

Mr. McDOUGALL. Will the Senator allow me to ask him whether he was not advised of that? I cannot but suppose that he was.

Mr. KENNEDY. Advised of what?

Mr. McDOUGALL. That Breckinridge was nominated for the purpose of electing Lincoln.

Mr. KENNEDY. The Senator will pardon me. I will come to that. It is that part of my distinguished friend's speech that I particularly except to.

Mr. DAVIS. Will the Senator from Maryland just permit me to say a word?

Mr. KENNEDY. Certainly, sir, with the greatest pleasure.

Mr. DAVIS. I argued to prove, as the Senator states, that the purpose of the southern conspirators in nominating Breckinridge was to produce the defeat of Douglas and the election of Lincoln.

Mr. KENNEDY. I will not misrepresent the Senator; I will come to that.

Mr. DAVIS. But you will see my point in a moment. I said that this was done with the purpose of giving them a pretext to attempt to dissolve the Union.

Mr. KENNEDY. So I understood, sir.

Mr. DAVIS. I argued to prove that from the relations which the Senator from Indiana himself said he had so long maintained with those southern conspirators, he must have known of their purpose in his conferences with them; but I do not recollect that I took the position that he sanctioned that purpose. I may have done so, but I do not recollect that in the speech I made I said that he gave his sanction to it. I merely endeavored to establish by a train of reasoning, if reasoning it may be called, that he was conscious of their purpose.

Mr. KENNEDY. I have not mistaken the honorable Senator. I recollect perfectly the impression made on my mind by his remarks, and that was that the honorable Senator from Indiana, being in close affiliation and intimate association with those gentlemen, he must have known their purpose long entertained to overthrow the Government. As to that, I do not know; I speak to the facts simply. The Senator quoted an expression of the Senator from Indiana, that he was opposed to the policy of coercion. He argued that the Senator, knowing that these men meant and intended to overthrow the Government, did nothing whatever to oppose it, and that he advocated the nomination of Mr. Breckinridge (referring particularly to the vote of Indiana to prove that position) for the simple purpose of electing Mr. Lincoln and affording a pretext for these gentlemen to go out of the Union, and upon that ground that he ought to be expelled, he having voted for Breckinridge with that knowledge.

Now, sir, I think, in all courtesy and kindness, it is a very unfair assumption that, because the Senator voted for Mr. Breckinridge, and had been the friend of those gentlemen, he was guilty at least of complicity with treason. I voted with the Senator from Kentucky for John Bell. I advocated his election; and where does he now stand? In open affiliation with rebels, and calls himself

one. Shall we be tried for treason, and expelled from this floor, because we did affiliate with and advocate Mr. Bell's views?

That brings me to another point: I was one of those who, through all the long struggles of last winter up to the very morning of the 4th of March, advocated the measures and policy of compromise urged by the venerable and distinguished predecessor of the honorable Senator from Kentucky. I stood by him; I counseled with him; I worked with him to endeavor to effect some measure of conciliation, and some compromise which would render the policy of coercion unnecessary. What success we met with the political history of this country has already recorded. We met with none. I recollect being rebuked by gentlemen on the other side of the Chamber for what was charged upon me as an intemperance of manner when I called for the yeas and nays upon a test vote to know whether our friends upon that side of the Chamber were willing to adopt some measures of compromise, and thus avert war. I stood with the gallant Senator now deceased—the illustrious Senator who, from that place, (pointing to the seat formerly occupied by Mr. Douglas,) proclaimed the doctrine of coercion as meaning disunion—as forever preventing a reconciliation between the extremes of this country. May I be allowed to refresh the memory of the Senate with one short passage from the speech of that distinguished Senator?

Mr. Douglas, in his speech of January 3, 1861, said:

"Are we prepared for war? I do not mean that kind of preparation which consists of armies and navies, and supplies, and munitions of war; but are we prepared by our HEARTS for war with our own brethren and kindred? I confess I am not. While I affirm that the Constitution is, and was intended to be, a bond of perpetual Union; while I can do no act and utter no word that will acknowledge or countenance the right of secession"—

and I stood with him upon that particular view that he had taken of the odious doctrine of secession—

"while I affirm the right and duty of the Federal Government to use all legitimate means to enforce the laws, put down rebellion, and suppress insurrection, I will not meditate war, nor tolerate the idea, until every effort at peaceful adjustment shall have been exhausted, and the last ray of hope shall have deserted the patriot's heart. Then, and not till then, will I consider and determine what course my duty to my country may require me to pursue in such an emergency. In my opinion, war is distant, certain, inevitable, irrevocable. I am for peace to save the Union."

For the reason thus expressed I stood with the late distinguished Senator from Kentucky, now occupying a seat in the other House. I was against coercion, and I advocated measures of conciliation in order to preserve the Union inviolate, and to prevent the sowing of the dragon's teeth that are springing up rank and luxuriant over this land in everlasting hatred, one section against the other.

Mr. McDUGALL. Will the Senator from Maryland allow me to ask him when were the dragon's teeth sown?

Mr. KENNEDY. I am very free to answer. This was the mere culminating point, and I was anxious to prevent an outbreak. I was pursuing the same course that was advocated by the distinguished Senator from Oregon, now no more, (Mr. Baker,) whose eulogy has been pronounced on this floor by eloquent and warm and devoted friends. That Senator stood here asking for compromise, for concession, upon the 2d and 3d of March, and trying to bring his friends on the other side of the Chamber to the same view.

I have merely alluded to the opposition to the principle of coercion, which has been charged as one of the offenses of the Senator from Indiana, simply to show that he was not alone in entertaining that sentiment. The propositions of the late venerable Senator from Kentucky [Mr. CARRENDER,] were for peace, were against coercion, as long as there was a hope of conciliation and compromise, for the very purpose of staying off the first blow which I feared would end in the entire ruin of all the great material interests of the country, if not of the country itself. Whether we are ever to get back to the position we held one year ago, is known only to Omniscience. In my humble judgment every blow that is now struck only tends to increase still more that deadly animosity that must exist through long lingering ages; but in making that remark, let me not be misunderstood. I say that now the day of compromise is past and gone, and we have come to realize

the horrid realities of civil strife, and nothing can end it but sharp, rapid, and vigorous blows, as a test of manhood between the sections.

I know that the Senator from Indiana advocates the doctrine of compromise simply as a means of preserving peace. I know that that Senator felt most anxiously about the result of those measures of compromise which were offered last winter. While he did not stand here on terms of personal intimacy or intimate association with the late distinguished Senator from Illinois, I had an opportunity of knowing that he sympathized with the very sentiments that were so gallantly and so eloquently expressed by that Senator. I know that when he said he would not vote one dollar or one man for the prosecution of this war—at least I so understood him upon every occasion—he meant that to apply only so long as there was one ray of hope for conciliation or for compromise.

Now, Mr. President, I will relate a fact within my knowledge as evidence that that Senator did entertain an earnest desire to preserve this Union. I think it is just to him that I should state it. I think it is due to candor and to truth that he should have the benefit of an incident that came under my own observation, which goes far to prove that he had no purpose whatever of seeing this Government broken up, and no desire whatever to unite in the treasonable purposes of some southern Senators in their course on this floor.

It was but a very short time before these seats were vacated that in yonder cloak-room was a party of Senators, including Mr. Mason, Mr. Davis, and Mr. Benjamin, who were the three prominent speakers on the occasion I allude to. I came into the room, and I found them engaged in a warm discussion. Mr. BRIGHT was earnestly remonstrating against their course, denying the right of secession, opposing it as neither a constitutional remedy nor a policy of expediency; appealing to those gentlemen by every consideration of justice and right to remain here in their seats and fight for a redress of grievances in the Union. He told them that justice to him and his friends in the North, who had stood by them in endeavoring to obtain the enforcement of their rights against what they believed to be the aggressive policy of the North, required them to remain in the Union. His appeal was earnest, urgent, and warm against the wrong that they were about to inflict upon the country, as well as upon the members of the Democratic party of the free States. At that juncture I joined in the conversation. I presented the case of my own State. I spoke of the injustice and wrong they were doing to the border slave States. I predicted the very consequences that would result from their rash act. That gentleman [Mr. BRIGHT] received but little consideration. I well recollect the earnestness with which he denied their right to secede as a constitutional remedy.

Now, sir, if he had entertained a treasonable intent, if he had had a treasonable purpose in giving aid and comfort to those gentlemen on the 1st of March, how do you reconcile that earnest private conversation that I happened to overhear, and that gave me an opportunity of speaking for my own State and in defense of my own sentiments and views? I mention this simply as an act of justice to that Senator.

Much has been assumed against him; much has been charged. It has been asked upon the other side, what has the Senator ever done to vindicate himself from this charge of treason? The honorable Senator, to my certain knowledge, was a warm advocate and supporter of all the measures of compromise, which, I have no doubt, would have been supported by my distinguished friend from Kentucky had he been here. Indeed, he said the other day that he would have been glad to see them carried out; and, as I have already said, when it was charged that the Senator from Indiana had declared he would not vote one dollar of money or one man for coercion, I, from the opportunities I had had to understand his sentiments, understood such a remark, if made at all, as meaning so long as there was a hope of conciliation and of averting war.

Mr. BRIGHT. I never made that remark.

Mr. KENNEDY. The Senator says he never made that remark. It is true the Senator did not speak in the Senate upon these questions. I am not responsible for his silence; I do not know any reason for it; I only know that his votes

were with me and with the venerable Senator from Kentucky, who was the advocate of these propositions. He was earnest in his desire to obtain some measure of conciliation, which he regarded as essential for the preservation of the peace of this country and the final reconstruction and restoration of the Union. Sir, in that belief and opinion he was not singular, certainly. The numerous memorials that were presented from the free States, embracing hundreds of thousands of names, attested the feeling of the northern people against the principle of coercion until every measure of conciliation had been exhausted. That, sir, I understood to be the position of the Senator from Indiana here; it certainly was mine.

At the last session of Congress—the July session—when war was flagrant and open, when we were called to consider measures for war, I took early occasion to proclaim the course that I should adopt; and that was to sustain this Government in every just and constitutional measure that was deemed necessary and right and requisite to carry on the war. As a member of two or three of the most important committees of this body, I will ask my friends upon the other side of the Chamber, members of those committees, whether I have not upon every occasion, in every instance, supported every just and proper measure that has been brought before us for our consideration, especially as a member of the Naval Committee. I could not give my sanction to the resolution that was offered by the chairman of the Military Committee last July, to make valid all the acts of the President. I stated my reasons, and I made the exceptions. I said that I could not vote to legalize what I regarded an unconstitutional act on the part of the President, in increasing the standing Army in the recess of Congress; and I did not agree that the President had the power to suspend the writ of *habeas corpus*.

In that I was not singular. I believe my distinguished friend from Ohio [Mr. SHERMAN] rose in his place, and proclaimed that he did not believe the President had that power. The distinguished Senator from Illinois, the chairman of the Judiciary Committee, [Mr. TRUMBULL,] rose in his place, and stated that he never saw the day or hour that he would vote for that joint resolution as it stood. I was misrepresented for my remarks upon that occasion. I expressly proclaimed and declared that, now that all measures of conciliation had passed, I was ready to maintain and support the Government in every constitutional measure deemed necessary and proper for the suppression of the rebellion. I occupy that position to-day; and I challenge gentlemen on the other side of the House, and everywhere else, to say whether I have ever interposed any opposition to any measure that was constitutional and proper since July last. Gentlemen can answer. I have cooperated with the very warmest advocates of force and power in every measure that was deemed necessary to bring this war to a speedy and victorious result. I stand there now, and I honestly believe before Heaven that the Senator from Indiana, up to this moment, for all I have ever seen to the contrary, occupies precisely the same position with myself. He occupied the same ground as the honorable Senator from Pennsylvania (Mr. Bigler) at the last session of the last Congress; he voted for and advocated every proposition that that Senator brought forward. I say this much in justice to the honorable Senator from Indiana.

Mr. DOOLITTLE. If the honorable Senator from Maryland will allow me, I desire to move to go into executive session.

Mr. KENNEDY. I shall be through in five minutes.

Mr. DOOLITTLE. I thought the Senator desired to speak at some length.

Mr. KENNEDY. Mr. President, I said in the beginning that I intended to rest my vote upon the decision of the Judiciary Committee. No Senator has stated the case of the Senator from Indiana with more fairness than the honorable Senator from Pennsylvania, [Mr. COWAN,] who made the report, as I understand, on the subject. That committee, composed of seven learned gentlemen, stand six to one against the expulsion of the Senator from Indiana. As lawyers and as judges, they have investigated the evidence in this case, and they have come to the conclusion that it is treason or it is nothing. To make it treason, there

must have been war upon the 1st day of March last. Do not Senators recollect distinctly the inaugural address, which was uttered in tones of kindness and conciliation, with the express declaration from the lips of the President that he meant conciliation, and there would be no war upon his part? He considered the Union as intact. He did admit that there was an insurrection, a rebellion, in the land; but he trusted to wise counsels and temperate measures to bring back those erring States to their proper obedience to the Constitution. The then distinguished Senator from Illinois, the late lamented Judge Douglas, on the 6th of March, proclaimed that the President's inaugural address meant peace, and that war did not exist. After it had been announced that Sumter would be evacuated, the general impression on all sides of this Senate Chamber was that our difficulties would be compromised and reconciled without war. There was in certain States of the Union an insurrection, but no blow had been struck. It was, to a certain extent, an act of war upon their part, but it was not flagrant, open war as we have to-day.

Mr. President, in my humble judgment, the whole question turns upon that one fact, as the distinguished Senator from New York [Mr. HAR- RAS] has said; and in this connection I will take the liberty of reading one or two paragraphs from his speech, very convincing and conclusive to my mind—so conclusive that it has not left one doubt remaining as to the proper course that I should pursue:

"But, sir, with the judgment of charity, I am unable to bring my mind to any such conclusion."

That is, of the treasonable intent of the Senator from Indiana.

"I believe that at the time this letter was written no such thought entered the mind of the Senator who wrote it. I believe that it was one of those hasty, ordinary letters of introduction which we all of us feel a burden to us here, which we are called upon daily and hourly to write, and that he simply intended to introduce the man, and state in a word the object of his visit. In the light of all the circumstances, looking at the time when the letter was written, I cannot bring myself to the conclusion that there was in the mind of the writer of that letter at that time any treasonable purpose. I think the letter and the surrounding circumstances repel that inference."

"Sir, suppose that Sumter had never fallen; suppose that this terrible war had not broken out; suppose that we were unable to look at this letter in the light of subsequent events, would any man imagine that there was treason in the letter? It seems to me not. Is it fair, is it just, is it a proper mode of administering criminal law to judge of an act, to interpret an act, to give legal effect to an act by what subsequently occurs, and with which the party charged with the act had no connection? It seems to me that if this Senate shall vote to expel the Senator from Indiana, without coming to the conclusion that there was a treasonable design in writing that letter, it would be guilty of an act of the grossest injustice, unworthy of the Senate towards the Senator from Indiana, and of injustice to itself."

Now, sir, up to the time that Sumter fell, scarcely a Senator on this floor believed that civil war would rule and rage over this land. I recollect that when in conversation with distinguished Senators on that side of the Chamber, I pressed the consideration of some measure of conciliation, the universal response was there would be no war; it was only necessary that the Constitution should be enforced. I expressed at that time my great apprehension that a blow would be struck, and when once struck, to my mind, it would end almost all hope forever of reconstructing the Government upon the same friendly, kindly feelings of comity and friendship, so essential to the workings of a Government formed as ours is.

Sir, I do not desire to detain the Senate any longer. I have said this much in justice to the Senator from Indiana. I have deemed it due to him that I should give to the Senate the views that he expressed in private to the very leaders of this rebellion itself; his earnest remonstrances against the course that they were pursuing, which, in his judgment, would end in one universal scene of desolation and ruin. Why, sir, what object, what motive could that Senator have in advocating a dissolution of this Union? How was he to be benefited by it? Residing in a free State, perhaps with all the associations of his life connected with the institutions of the free States, with his property and his means all there, would he be willing to advocate a dissolution of this Union, or to see it permanently divided, when his very material interests, as well as his political standing, were to be affected by it? Sir, to my mind it is preposterous to suppose, with the light of all these facts before us, that that Senator, when he wrote the

letter for Thomas B. Lincoln meant in any manner whatever to compromise with treason in the slightest degree.

Mr. BROWNING obtained the floor.

Mr. DOOLITTLE. If the Senator from Illinois will allow me, I desire to move to go into executive session; and I can state in a single moment the object. It is simply to change the special order which was made in executive session for Monday over until Tuesday, so that we can have Monday in which to dispose of this case; and I beg to say and have it understood on all sides of the Chamber, that I believe there is a general expectation that on Monday the subject will be finally disposed of.

Mr. HALE. I am opposed to that motion utterly and totally. There is no better time than the present to sit here and dispose of this subject; and if we go into executive session I am opposed to the order which the Senator proposes to make. If speeches are to be made on this subject now is the best time on earth to make them. I think we had better reconsider the vote agreeing to adjourn over until Monday, and sit here and dispose of this business. I am opposed to going into executive session, and I call for the yeas and nays on the motion.

Mr. DOOLITTLE. I withdraw the motion. The VICE PRESIDENT. The motion is withdrawn; and there is no question before the Senate save the one on which the Senator from Illinois is entitled to the floor.

Mr. DAVIS. I ask the Senator from Illinois to yield me a moment, in order to allow me to make an explanation.

Mr. BROWNING. Certainly.

Mr. DAVIS. Mr. President, the feelings of kindness and respect which the honorable Senator from Maryland expressed towards myself, I assure him, are most heartily reciprocated. The Senator, however, made one point on which I desire to make an explanation. He thinks that my vote for Mr. Bell as candidate for the Presidency is about parallel with the vote and support of the Senator from Indiana of Mr. Breckinridge. I do not think so; and I will state in a word why I differ from the conclusion which the honorable Senator from Maryland came to on that point.

Mr. Bell was nominated by the unanimous vote of a convention. His party presented him without any dissent to the people of the United States as a suitable candidate for the Presidency. Mr. Breckinridge was presented by but a small faction of his party. The point that I endeavored to establish by reasoning and conclusion from the facts adverted to by the Senator from Maryland was this: that Mr. Breckinridge was nominated as a candidate by the men who had conspired to disrupt this Union; that the personal relations that subsisted between the Senator from Indiana and those conspirators were of such a character as that I reasonably inferred made him acquainted with the purposes of those conspirators in relation to secession. Having come to that conclusion on the facts upon which I then relied, I argued that, in my judgment, the Senator was wrong in sustaining the pretensions of Mr. Breckinridge as a candidate for the Presidency, because he must have known of the treasonable purposes of the southern politicians who presented Mr. Breckinridge as a candidate for the Presidency. It was all a matter of reasoning and of inference.

But, Mr. President, one further remark. Mr. Breckinridge was elected to the Senate of the United States by the Legislature of Kentucky last winter a year ago. He left his seat in the Senate temporarily and made his appearance before the Legislature of that State to give his thanks to that body for having elevated him to that high position. In the course of his speech he portrayed a conspiracy to dissolve the Union, and he declared explicitly and unequivocally that five of the States of the United States would certainly secede. He did it with as much distinctness and truth as it could now be done. That speech was published immediately after it was pronounced in the legislative hall at Frankfort, Kentucky, and was circulated extensively over the country. Mr. Breckinridge himself knew of this conspiracy. He did not condemn it. After he had published this knowledge of the conspiracy and what would take place by the action of at least five of the cotton States, he was nominated for the Presidency and was supported by the Senator from Indiana. The ground of my complaint was this: that with this

knowledge, the knowledge, which I argued was reasonably established by the facts of the case, the Senator from Indiana had of the purposes of these southern conspirators, after Mr. Breckinridge himself had disclosed his perfect knowledge of their purposes by having revealed them in general but distinct terms to the Legislature of Kentucky, the Senator from Indiana and his friends and political associates in that State should have then brought out a ticket in favor of Mr. Breckinridge as a candidate. That was the ground of my complaint, and I think that complaint was justly made. I alluded furthermore to the fact that after Mr. Breckinridge had disclosed to the people of the country through the Legislature of Kentucky the dark and bold conspiracy of those men, and after he had stated in the most distinct terms that five of the cotton States would secede, and thus revealed his full knowledge of their treasonable purposes, he should himself have accepted with this full knowledge a nomination for the Presidency of these very men whose conspiracy he had revealed to the people of his State and of the nation.

Mr. BRIGHT. Mr. President, the debate has taken so wide a range—

The VICE PRESIDENT. The Senator from Illinois is entitled to the floor.

Mr. BRIGHT. I am aware of that. I shall not inflict a speech on the Senate; but if the Senator from Illinois will allow me, I desire to make a remark.

Mr. BROWNING. Certainly.

Mr. BRIGHT. This debate has taken a direction novel and unprecedented in the history of the proceedings of this body. Charged by the original resolution with a single act of disloyalty, one Senator after another adds additional accusations, until I am at a loss to know what I have to defend against. If I do undertake a reply, it will hardly be expected that I shall go over the whole ground; but I do propose, before a vote is taken, to review a few of the positions taken by the Senator from Pennsylvania, [Mr. WILMOT,] and the still more extraordinary speech made to-day by the Senator from Tennessee, [Mr. JOHNSON.] I am induced to make this announcement because there are three Senators present now that were not for some days after this discussion commenced. I allude to the honorable Senator from Virginia, [Mr. WILLEX,] absent on account of indisposition, and to the honorable Senators from Missouri, lately sworn in as members of the body. Presuming that they, with other Senators, wish to decide this case upon the facts, and not upon party grounds, I shall, at some time before the debate closes, submit a brief statement of the facts, stripped of the multiplied, unfair collateral issues that have been dragged into it.

Mr. DOOLITTLE. Mr. President—

Mr. BRIGHT. I repeat I am not going to make a speech. One single suggestion more and I am done.

I am on trial for my political opinions—nothing else, as this discussion proves. My record is referred to as evidence of want of loyalty and sympathy with this Administration. My antecedents, it is charged, prove me in favor of secession and against this war. Now, sir, these are points to be settled by written history, and not by the speeches of such Senators as assail me in this prosecution.

I intend to assert that in seventeen years' service in this body I have never given a sectional vote; that in all the contests had here in that time, and they have been many, I have occupied a middle, conservative position, repudiating as well northern as southern isms; that within the time I have mentioned there has been Territory after Territory organized, and State after State admitted, on all of which there has been more or less of sectional struggles.

When mere resolutions, declaratory of principles, and enunciating the rights of either or both sections of the Union, have been acted upon, my votes and speeches will show that I have tried to hold the scales of justice with an even hand, and in a spirit of compromise. I repeat, then, as I am to be expelled for past acts and political opinions, if expelled at all, take our Journals and debates as the best evidence of my opinions and acts, and as furnishing the outlines of a political policy that has governed me in the past, and will likely govern me in the future, let me be where I may.

Mr. DOOLITTLE. It is evidently impossible

to bring this matter to a conclusion to-night, and as there is a special order, I understand, fixed for one o'clock on Monday, it is necessary either that that special order should be postponed until Tuesday, or that this case shall be set down for Tuesday. I therefore move that this case be set down for Tuesday, at one o'clock, with the understanding upon all hands that it be disposed of on that day.

Mr. HALE. You cannot make any such agreement.

Mr. McDUGALL. Reasons personal to myself will compel my absence from the Senate until some time on Tuesday; the hour I cannot state. I shall be compelled to leave the city for a short time owing to the illness of one of my family, and I do not wish to have a vote taken on this question in my absence. As I said to the Senate this morning, I am willing to pledge myself to sit here until we can get a vote upon it. In my opinion, this thing of going home to dinner and being anxious about it is a small kind of business. When we have a controversy before us we had better settle it at once, and I should like to have this question settled now.

The PRESIDING OFFICER, (Mr. Rice in the chair.) Will the Senator from Wisconsin please state his motion again?

Mr. DOOLITTLE. I move that this subject be postponed until Tuesday next, at one o'clock; or if Senators prefer to reconsider the vote by which we agreed to adjourn over until Monday, I am willing to do that.

Mr. GRIMES. I hear gentlemen around me saying they wish the vote by which we agreed to adjourn until Monday reconsidered. I am perfectly willing that gentlemen shall reconsider it if they see fit; but I will not promise to be here to-morrow, for the reason that Saturday is the only day on which members of Congress can obtain access to some of the Executive Departments. It may not be necessary for Senators representing States in the immediate vicinity of the capital, or States that have agents here representing the executive officers of those States, to go to the Departments; but some of us live very remote from the capital, and our States have no agents here to represent them. A great deal of duty is imposed upon us, therefore; there certainly is upon me; and I am compelled to go to those Departments to represent the Governor of my State and others who have intrusted business to me.

Mr. WADE. It seems to me Monday steers clear of all objections. Let us agree to take the vote Monday.

Mr. BROWNING. I believe I had the floor on this question.

The PRESIDING OFFICER. The Senator from Illinois is entitled to the floor, but has been yielding it for some time through courtesy.

Mr. FESSENDEN. I hope the Senator will give way to me for a moment.

Mr. BROWNING. I will, sir; but I hope there will not be any more claims upon me.

Mr. FESSENDEN. It is quite evident that the Senate may as well on this occasion, as on many others heretofore, come to an understanding, and without reference to what each individual Senator may wish, to look the matter directly in the face. We have got a special order for Monday. The Senator from California desires to vote on this question, and if he could be here on Monday I should be perfectly willing to postpone that special order to another time and act then on this subject; but he has stated on the floor that he cannot be here on Monday, and desires to vote on the question. He can be here on Tuesday, as I understand him.

Mr. McDUGALL. I am compelled to leave for a short time, and cannot get back until some time on Monday. I shall go to-morrow.

Mr. FESSENDEN. Very well. Then the Senator cannot be here on Monday, but can be on Tuesday; and if we can have that day fixed as the time when the final vote shall be taken, it is quite evident we had better do that, if the Senator is going to-morrow, as he states. To-morrow is fixed as a day for business at the Departments. Many Senators, instead of going there during the week, have put off all the business they have to do with the Departments until to-morrow, and are unwilling to agree to come here to-morrow; you cannot see the Secretary of War on any other day of the week. Under these circumstances, having

a special order for Monday, it is quite manifest, in my judgment, that the sensible thing to do is to agree upon Tuesday, without further debate, as the day on which we shall take the vote.

Mr. McDUGALL. Allow me to make one remark. I am not in the habit of asking favors, and I only do it now in consequence of the illness of one of my family.

Mr. FESSENDEN. It is understood the Senator has an entirely sufficient reason. He desires to leave. I hope, therefore, the motion of the Senator from Wisconsin, if the honorable Senator from Illinois will allow it to be put, will be agreed to; and I think there will be no misunderstanding on the part of the Senate.

Mr. BROWNING. Mr. President, but for the fact that it would be discourteous and unjust to the Senator from Indiana to force him into a reply to-night, I should prefer to go on and settle this question now; but that is a controlling reason why we should not do it. I have no intention to participate in this debate any further than to state, in the briefest possible manner, the reasons that will control my own vote, without attempting an argument to influence the opinions of any other Senator upon this floor. I cheerfully give way to the motion made by the Senator from Wisconsin for a postponement of this subject until Tuesday; and while I shall have the floor for that day, I want it distinctly understood it is with no intention or purpose of making a speech, but simply to state the reasons of my vote.

Mr. POWELL. I understand the Senator from Wisconsin has already submitted a motion that this subject be postponed until Tuesday next, and as we have a special order for Monday, I think it very proper that this matter should be set down for Tuesday. I hope the motion of the Senator from Wisconsin will prevail.

Mr. HALE. At a proper time I should be willing to postpone this matter until Tuesday, but I am not willing to do it now. If anybody thinks he can enlighten the Senate upon it by a speech, I think he had better try it to-night. I am unwilling to postpone this subject until Tuesday, and to come here and hear these things repeated over and over again. I have not opened my mouth in this debate, and do not mean to do so; but I am not willing day after day and day after day to have the public business postponed for the purpose of hearing speeches on this subject, on which I suppose every Senator has made up his mind.

Mr. BROWNING. Mr. President, there is no Senator upon the floor perhaps who enlightens us more frequently than the Senator from New Hampshire, and there is no one who is more tenacious of his right of being heard upon every question that presents itself before the Senate. If I choose in my humble way to present the reasons which will control my own vote, I do not admit his right or the right of any other man to reprimand me for it, or to undertake to dictate who shall speak and who shall not speak upon any question. I did not ask the Senate to adjourn for my accommodation; but I protest against the Senate being deterred from acting in accordance with its own sense of what is proper by the magisterial declaration of the Senator from New Hampshire, that he does not wish to hear any more speeches from anybody upon this subject, and therefore debate ought to be closed.

Mr. McDUGALL. I wish to say one word on the subject of postponement. I have been objecting with my fellow Senators to an adjournment. It is my opinion, and the result of some observation, that we can transact business better by disposing of it at once when we have it in hand, than by postponing it and taking it up again the next morning. In my opinion, when we have matters of controversy here they had better be settled without any adjournment; and although I am about as old as any gentleman on this floor, except perhaps the Senator from Vermont and the Senator from New York, I would rather stay here in my place and try to transact some business than hunt my dinner. I really think that if we were wise and considered public business, and felt the burden of our office, we would stay here. I do not understand how gentlemen who have upon them the burden of this Government—I cannot say it for myself, because I do not belong to the party that especially represents the Government—can afford to adjourn because it is dinner time.

Mr. TRUMBULL. I move that the Senate adjourn.

Mr. HALE. I call for the yeas and nays on that motion.

The yeas and nays were not ordered.

Mr. POWELL. I appeal to the Senator from Illinois to withdraw the motion. We can put the question now, I think, on the motion of the Senator from Wisconsin.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 31, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON. The Journal of yesterday was read and approved.

FLOATING DEBT.

The SPEAKER laid before the House a communication from the Secretary of the Treasury in reference to the resolution of the 8th instant, calling for an account of the floating debt; which was laid on the table, and ordered to be printed.

COMMERCIAL RELATIONS.

The SPEAKER also laid before the House a communication from the Secretary of State, transmitting, in compliance with the acts of Congress of August 16, 1842, and August 18, 1856, a report on the commercial relations of the United States with foreign nations for the year ending 30th September, 1861.

Mr. ELIOT. I move that the report be referred to the Committee on Commerce, and ordered to be printed.

The motion was agreed to.

Mr. ELIOT. I move that the usual extra number of copies be printed.

The SPEAKER. That motion goes under the rules to the Committee on Printing.

FRAUDULENT CONTRACTORS.

Mr. WICKLIFFE. I ask the unanimous consent of the House to offer a resolution, which it strikes me it is of importance that the House should act on.

The resolution was read, as follows:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of placing contractors for the supplies of the Army and Navy, and for all materials or arms for the same, under the rule and government of military law, the rules and articles for the government of the Army and Navy, with power to punish for fraud or infidelity.

Mr. WICKLIFFE. Mr. Speaker, I have read with astonishment and sorrow evidences of the frauds practiced on the Government by Government contractors, not only to the loss but to the discredit of the Government. Recent developments satisfy me that the most infamous frauds have been practiced in the supply of the necessities of life to the Burnside expedition. In times like these, those who contract with the Government should be placed under military rule, and punished for their frauds and villainy. I hope the committee will consider this subject immediately.

Mr. DAWES. There are already two committees intrusted with this matter, and I suggest that they be discharged from its further consideration, and that the whole subject be referred to the Committee on Military Affairs. It seems to me that it is hardly worth while to employ three committees of the House at the same time on the same subject-matter. After some debate in the House, in the early part of the session, the Judiciary Committee had a bill referred to it for that purpose. A few days since, on the receipt of some very eloquent and proper resolutions from the Legislature of the State of New York, approved by its Governor, the committee on Government contracts was instructed to inquire into this same thing; and now my friend from Kentucky proposes to refer it to the Committee on Military Affairs. As an humble member of one of those committees, I should like that the whole subject were referred to the Committee on Military Affairs.

Mr. WICKLIFFE. After this resolution is adopted, the gentleman can move to discharge those other committees from the further consideration of the subject.

Mr. DAWES. I move to refer the resolution to the committee on Government contracts.

Mr. WICKLIFFE. I want to have it referred to the Committee on Military Affairs. If the gen-

leader of the band, be, and the same is hereby, repealed; and such bands shall be mustered out of the service within thirty days after the passage of this act.

Sec. 7. *And be it further enacted*, That each brigade in the volunteer service shall have sixteen musicians as a band; to be selected from the regimental bands mustered out of service by this act; who shall receive the pay and allowances now provided by law for regimental bands, except the leader of the band, who shall receive forty-five dollars per month only.

Sec. 8. *And be it further enacted*, That, in lieu of the present rate of mileage allowed to officers of the Army when traveling on public duty, where transportation in kind is not furnished to them by the Government, not more than six cents per mile shall hereafter be allowed, unless where an officer is ordered from a station east of the Rocky mountains to one west of the same mountains, or vice versa, when ten cents per mile shall be allowed to him; and no officer of the Army or Navy of the United States shall be paid mileage, except for travel actually performed at his own expense, and in obedience to orders.

Sec. 9. *And be it further enacted*, That, during the continuance of the present rebellion, there shall be deducted from the compensation of all persons employed in the military, naval, and civil service of the United States, except warrant officers and sailors in the Navy, and non-commissioned officers, musicians, and privates in the Army, ten per cent. of the amount of their compensation.

Sec. 10. *And be it further enacted*, That in each of the permanent hospitals where the President may deem it necessary, he may appoint a chaplain, who shall receive the same compensation as is now allowed to post chaplains in the regular service.

Sec. 11. *And be it further enacted*, That so much of section nine of chapter nine, approved July 22, 1861, and of section seven of chapter forty-two, approved August 3, 1861, as defines the qualifications of chaplains in the Army and volunteers, shall hereafter be construed to read as follows: That no person shall be appointed a chaplain in the United States Army who is not a regularly ordained minister of some religious denomination, and who does not present testimonials of his present good standing as such minister, with a recommendation for his appointment as an Army chaplain from some authorized ecclesiastical body, or not less than five accredited ministers belonging to said religious denomination.

Sec. 12. *And be it further enacted*, That so much of the fifth section of the act approved July 22, 1861, as allows forty cents per day for the use and risk of the horses of company officers of cavalry, be, and the same is hereby, repealed.

Sec. 13. *And be it further enacted*, That whenever an officer shall be put under arrest, except at remote military posts or stations, it shall be the duty of the officer by whose orders he is arrested to see that a copy of the charges on which he has been arrested and is to be tried shall be served upon him within eight days thereafter, and that he shall be brought to trial within ten days thereafter, unless the necessities of the service prevent such trial; and then he shall be brought to trial within thirty days after the expiration of the said ten days: *Provided*, That if the copy of the charges be not served upon the arrested officer as herein provided, the arrest shall cease: *And provided further*, That the provisions of this section shall apply to all persons now under arrest and awaiting trial.

Sec. 14. *And be it further enacted*, That whenever the name of any Army officer now in the service, or who may hereafter be in the service of the United States, shall have been borne on the Army Register forty-five years, or shall be of the age of sixty-two years, he shall be retired from active service, and his name entered on the retired list of officers of the grade to which he belonged at the time of such retirement.

Sec. 15. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to assign any officer who may be retired under the preceding section of this act, or the act of August 3, 1861, to any duty; and such officer thus assigned shall receive the full pay and emoluments of his grade while so employed.

THE VICE PRESIDENT. The question is on agreeing to this amendment reported from the Committee on Military Affairs.

The amendment was agreed to.

Mr. NESMITH. In section nine, line six, after the words "privates in the Army," I move to insert the words "and marine corps." The amendment was adopted in committee, but it has been omitted in the printed copy of the bill.

THE VICE PRESIDENT. The substitute having been adopted, the bill is not now open to amendment; but by the unanimous consent of the Senate the Chair will entertain that motion.

Mr. WILSON, of Massachusetts. I was not paying attention at the time; I did not understand the proposition.

Mr. NESMITH. The chairman of the Committee on Military Affairs will recollect that in the committee this proviso included members of the marine corps. That is left out in section nine, line six.

Mr. WILSON, of Massachusetts. I think that is necessary to perfect the bill.

THE VICE PRESIDENT. That amendment will be made by the unanimous consent of the Senate.

Mr. GRIMES. Another amendment will be necessary: in the fourteenth section, fourth line, after the words "Army Register," to insert "or on the Naval Register as an officer of the marine corps of the United States," so as to include in

the retired list all marine officers who have been in service forty-five years.

THE VICE PRESIDENT. The amendment has been adopted by the Senate; but by the unanimous consent of the body it will be regarded as not having been adopted, and as open to amendment. The Chair hears no objection, and the question is on the amendment of the Senator from Iowa.

The amendment was agreed to.

Mr. SHERMAN. I ask the Secretary to read the ninth section of the bill.

The Secretary read it, as follows:

Sec. 9. *And be it further enacted*, That during the continuance of the present rebellion, there shall be deducted from the compensation of all persons employed in the military, naval, and civil service of the United States, except warrant officers and sailors in the Navy, and non-commissioned officers, musicians, and privates in the Army and the marine corps, ten per cent. of the amount of their compensation.

Mr. SHERMAN. This section presents the very question I desire to bring before the Senate. If this is all the reduction that Congress will pass, I am perfectly willing to acquiesce in it; but in my judgment this bill does not embrace by far all that ought to be deducted at this time. If this section be adopted, it will reduce the salaries of all civil, military, and naval officers of the United States ten per cent., but it will preserve all the inequalities of the present laws of compensation. Those laws have been passed in probably two or three hundred different bills from the foundation of the Government, and grafted as amendments to appropriation bills. They are often incongruous and uncertain. In some cases offices have been established by resolutions of the House of Representatives and of the Senate. In this way a system of compensation has grown up in the history of our Government that is grossly unequal.

Another thing: the present system of mileage, which this bill will continue forever, or at least during the rebellion, and after that, is grossly unequal. A member of Congress is now allowed forty cents a mile for the distance from his place of residence to this city. It is usually computed on the most circuitous route that can possibly be imagined. This rate, I believe, was fixed in 1789, when a member of Congress from the State of Maine, for example, mounted his horse, and rode twenty miles a day, and was allowed eight dollars for riding twenty miles on horseback. Since that time the whole mode of transportation and of travel has changed; and yet we preserve this unjust and unequal rate of mileage; and if this bill be passed, we shall continue to preserve it. That will be the effect of it, for this bill merely cuts it down ten per cent.

I know very well, Mr. President, that if this bill passes; it is the end of all attempts to correct these inequalities, or to change the mode of compensation. In the Army and in the Navy there are many inequalities. A staff officer who performs his duty in this city draws pay for quarters and fuel, and various perquisites of that kind, so that his pay is greater and larger than that of an officer of the line in the actual face of the enemy. All these things are continued, and a ten per cent. *ad valorem* reduction is made on all officers, without regard to their duties, and without regard to their rate of compensation. It seems to me that this principle is unjust. We have ample time and leisure to take up the various appropriation bills, and consider all these various modes of compensation, and correct them now; and if we do not do it now, under the pressure of this rebellion, we never shall do it. I say, Mr. President, it is easy for us, if we would transact our duty, to take up the appropriation bills one by one, and correct every inequality. It so happens that, under our system of Government, our annual appropriation bills cover every dollar that is paid out during the course of the year for any services rendered to the Government, so that, by taking up these matters item by item, we can correct these inequalities, while the plan proposed by the Senator from Massachusetts will only continue them. I desire in this connection also to submit some general remarks as to the necessity of it.

I know that to attempt to change the salaries of members of Congress, of the employes about us, and of the Army and the Navy, is the most unpleasant and invidious task that could be imposed on any one. As a matter of course, when we change their compensation, we interfere with the daily

life, the daily comforts, the social habits, the plans for education of the officers of our Government. I know very well, as I have occupied the position of a member of a committee on compensation and expenditures, the unpleasant comments that are made on any attempts to reduce salaries; but it seems to me that the exigencies of the country demand it, and I will not for one be negligent of that duty. We are told by the Secretary of the Treasury, in his annual report, that the expenditures of the Government for this year will amount to \$583,000,000. We are also told that for the next fiscal year the expenditures will not be less than \$550,000,000. We know that these estimates will not be decreased; that every bill brought into Congress, and especially from the Military Committee, with this solitary exception, tends to raise the amount to be paid; and we know that the pressure on the Finance Committee and the Military Committee is constantly to add to the appropriations.

Now, when you look at the large amount paid by the people of this country for State taxes; when you remember that nearly all the internal economy and internal government of this country is carried on by the States and by county and city corporations, and but very little by the General Government; and when you come to add the vast amounts paid for State, local, and city taxation to this vast aggregate, it is manifest that the people of this country will be called upon to bear an expenditure of not less than \$700,000,000. Nor can we avoid it. This is more than four times, yes, about five times the aggregate currency of the country; it is more than three times all the coin of the country; it is more than the Government of Great Britain bore in her struggle with Napoleon; it is nearly double the entire aggregate expenses of the British Government at this moment. It is more than any country in ancient or in modern times has endeavored to carry—

THE PRESIDING OFFICER. (Mr. Foster in the chair.) The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

PROPOSED EXPULSION OF MR. BRIGHT.

The Senate resumed the consideration of the following resolution, submitted by Mr. WILKINSON on the 16th of December last, and which had been reported adversely from the Committee on the Judiciary:

Whereas Hon. JESSE D. BRIGHT heretofore, on the 1st day of March, 1861, wrote a letter, of which the following is a copy:

WASHINGTON, March 1, 1861.

MY DEAR SIR: Allow me to introduce to your acquaintance my friend Thomas B. Lincoln, of Texas. He visits your capital mainly to dispose of what he regards a great improvement in fire-arms. I recommend him to your favorable consideration as a gentleman of the first respectability, and reliable in every respect.

Very truly yours, JESSE D. BRIGHT.

To His Excellency JEFFERSON DAVIS,
President of the Confederation of States.

And whereas we believe the said letter is evidence of disloyalty to the United States, and is calculated to give aid and comfort to the public enemies: Therefore,

Do it resolved, That the said JESSE D. BRIGHT be expelled from his seat in the Senate of the United States.

Mr. ANTHONY. Mr. President, protracted as this debate has been, I am unwilling that the question should be taken till I have pronounced upon which of the two entirely distinct lines of argument in favor of the resolution I rest my vote. I do not expect, I do not desire, upon a question of this kind, to influence the vote of a single Senator; nor should I declare the reason of my own, but I feel it due to myself that I should disclaim the ground upon which the resolution has been in part based in the course of the discussion.

I have arrived at the conclusion that it is my duty to vote for the resolution. I do it with a deep feeling of personal regret; but such feeling cannot be permitted to enter into the considerations that influence our judgment in matters of great public concern. I shall vote for the resolution simply upon the record which it recites; simply because, in my opinion, a Senator who could write such a letter to such a man, for such a purpose, cannot with safety to the public interest participate in our counsels. At this time, when the nation is staggering beneath the blow of rebellion, those who sit here must not be reasonably suspected. We punish with the severest penalties the humble citizen who gives aid and comfort to the enemy;

who renders him any assistance, or communicates to him any information. A Senator has introduced and recommended to the head of the rebellion a man who goes to dispose of an important improvement in fire-arms. In my judgment it is necessary that we should mark this act with the seal of our strongest reprobation.

I do not take into the account the speeches which the Senator from Indiana has made or the votes that he has given, still less the votes that he has omitted to give, in this Chamber. His speeches complained of have fallen short of those from other Senators, whose remarks passed with no more notice than the ordinary replies of debate; sometimes without even that. And however he has voted, and whenever he has omitted to vote or to propose substitutes for the measures which he has opposed, he has shared that responsibility with Senators of whom no complaint has been made. In my opinion, it would be monstrous to expel a Senator for either of these reasons; and I think that we should be cautious how we take them into the account, even by way of illustration. I found my vote simply on the reason assigned in the resolution itself.

Mr. HARRIS. I do not rise, Mr. President, further to discuss the resolution now before the Senate. The time for such discussion has passed. The question is settled. It needs but the form of a vote to indicate the determination of the Senate. The Senator from Indiana is to be expelled. Nothing further needs to be said with a view to control the action of the Senate. But, sir, a few things have occurred since I had the honor to address the Senate upon this question, which, in my judgment, deserve a brief notice.

Many Senators have expressed their views upon the question before the Senate. It has been very amply discussed, and the discussion has embraced a very wide range. I am glad to say and believe that most of the Senators who have addressed the Senate upon this subject have confined themselves very properly within the merits of the question pending; but other Senators, influenced I fear by the temper and the spirit which rules the hour, have gone aside from the question before the Senate and indulged in the discussion of matters which were, so far as I can perceive, entirely irrelevant to that under consideration. Some Senators, I think, have merged the character of the Senator and the judge in that of the partisan and the advocate.

The Senator from Massachusetts [Mr. SUMNER] at an early stage of the debate pronounced an able and an eloquent speech in which he, with sufficient severity, portrayed the enormity of the guilt of the Senator from Indiana. Not content with that, again yesterday he re-presented the case in stately terms and polished rhetoric in an elaborate speech—a speech which would well become the unremitting prosecuting attorney. I would not be discourteous, but it seemed to me like heaping blows upon a fallen foe.

The Senator from Kentucky [Mr. DAVIS] has made I think not much less than a dozen speeches upon this occasion, some of them of no ordinary length. I think he might not inaptly be denominated the senior counsel in this prosecution. Not content with that, he has visited the committee rooms and interrogated clerks with a view to impeach the manly testimony of the chairman of the Committee on Finance.

My friend from Tennessee [Mr. JOHNSON]—a man to whom my heart goes out in warmer and more gushing sympathy than any other man on this floor; a man of noble, lofty, patriotic, self-sacrificing spirit—he, too, stepped aside from the question pending before the Senate, and in the most eloquent terms depicted to us the horrors of this rebellion, and the heresy of the doctrine of non-coercion. In all this I agree with him; in all this I sympathize with him; but it was irrelevant to the question.

The Senator from Massachusetts told us yesterday that he regarded it as important that we should establish a precedent in this case, one that should hereafter stand exercising a benign influence. Sir, what is the precedent we are about to establish? What is the principle upon which this case is to be decided? What is to be that benign influence that this precedent is to exert in future time? Is the Senator from Indiana to be expelled because he is guilty of treason? I sought on a former occasion to show that that was the

only proper ground on which the Senate could act; but is it about to expel him because he is thus guilty? Clearly not. This Senate will not vote to-day to expel the Senator from Indiana because they convicted him of treason. Let us see. The Senator from Pennsylvania [Mr. WILMOR] the other day, in one of the fairest arguments that has been presented to this body, used the following language—language becoming the judge, the impartial and enlightened judge:

"But I am frank to admit that if I were sitting as a juror, there are those doubts hanging about the case that would make me hesitate to pronounce a verdict of guilty; but as a Senator, I will not hesitate as to the vote I shall give here." * * * "I know not under what circumstances of haste, or thoughtlessness, the letter was written. These, if they existed, were for the Senator from Indiana to show. There may not have existed, at the time the letter was written, that deliberate and wicked purpose essential to the technical crime of treason." * * * "As a juror, I might even refuse on the case, as it stands, to pronounce the verdict of guilty of high treason. But when the case is presented to me as a Senator—is the Senator from Indiana a safe man to sit here? Is his loyalty and fidelity to the Government justly obnoxious to strong and well-grounded impeachment?"

And, again, he said:

"We sit here in trial upon the Senator from Indiana, not to pronounce judgment against him for the crime of treason, but to say by our votes, under the facts before us, if he be a loyal and safe man to sit in this high council of State."

The Senator from Pennsylvania, therefore—and I think he has many who concur with him in the view he entertains—will expel the Senator from Indiana, not for treason, not because he wrote the letter to Jefferson Davis with a treasonable design, for I have conceded that if he thus wrote it he ought to be expelled, but because there are grounds to suspect that he is disloyal, and unsafe to sit here. What a reason that is for pronouncing a judicial decision!

The Senator from Tennessee used this language:

"We have the power and the right"—

I admit the physical power, but I deny the legal right.

"We have the power and the right to expel any member from the Senate whenever we deem that the public interests are unsafe in his hands, and that he is unfit to be a member of the body."

Sir, I have already alluded to the past history of the Senator, and I have indicated my idea that there are Senators now here who would long since have been sent out of the body in disgrace if such a rule of decision were to prevail. Again, the Senator from Tennessee said:

"Has the member unfitted himself, has he disqualified himself, in view of the extraordinary condition of the country, from discharging the duties of a Senator?" * * * "Can the nation and does the nation have confidence in committing its destinies to the Senator from Indiana, and others who are situated like him?"

Observe the language. Is this prosecution to pause here? Are "others situated like him" to be the subject of some subsequent resolution?

"When you pass through the country"—

I admit it; the atmosphere that surrounds the Senate is not confined to this body.

"When you pass through the country, the common inquiry is, 'Why has not Senator BARRETT, and why have not others like him, been expelled from the Senate?' I have had the question asked me again and again."

And what Senator has not? It is, as I have already said, the spirit that rules the hour:

"If such a letter had been written in the purest innocence of intention, with no treasonable design, with no desire to injure his own Government!"—

Observe the strong language used here, and then see what sort of a precedent we are to set:

"If such a letter had been written in the purest innocence of intention, with no treasonable design, with no desire to injure his own Government, yet, in view of all the circumstances, in view of the facts which had transpired, a Senator who would be so unthoughtful and so negligent, and so regardless of his country's interests, as to write such a letter, is not entitled to a seat on this floor."

And this proposition received the applause of the gallery. Now, sir, I ask what is the value of a precedent that is to be set when such views and such doctrines are announced by Senators who take part in the debate as the ground upon which this resolution is to be passed?

The Senator from Massachusetts seemed to find, in the course taken by those who have opposed the adoption of this resolution, some inconsistency, when compared with their action in reference to the resolutions for the expulsion of Breckinridge, Polk, and Johnson. Sir, the Senator has not well considered the great distinguishing difference between those cases and that now before

the Senate. There Breckinridge and Polk and Johnson had severed themselves voluntarily from this body; in the very language of the Constitution, they had united with the enemies of the country, and were furnishing them aid and comfort; the evidence of their treason was palpable; it was conclusive beyond all doubt. They themselves, if they had been here, would not have denied it.

Mr. WILKINSON. I wish to ask a question of the Senator.

Mr. HARRIS. Certainly.

Mr. WILKINSON. As the Senator is on the Judiciary Committee, I wish that he would state what evidence came before the Senate of their treason; what legal evidence was presented to this body?

Mr. HARRIS. I do not understand the question. Will the Senator repeat it?

Mr. WILKINSON. I asked the Senator, as he was on the Judiciary Committee, what legal evidence was presented to the Senate in regard to the treason of those gentlemen?

Mr. HARRIS. Mr. President, I do not choose to be diverted from the few remarks I have to submit here by a discussion of the evidence in the case of those gentlemen. The evidence was patent; perfectly well understood in the Senate, as well as in the committee. Everybody knew that the fact was established that those gentlemen had united themselves with the traitors, and were engaged in the prosecution of this rebellion openly and actively. On the other hand, how is it here? The Senator from Indiana is in his seat, claiming to represent a loyal State, claiming to be a loyal man, furnishing considerable evidence, I think, that he is a loyal man, discharging his duties as a Senator. He may entertain, I think he does entertain, heretical political notions— notions of a dangerous tendency. I admit that even. But, sir, that is not the question on which, I think, this resolution ought to be decided. The question is whether or not he wrote the letter for which he is accused with a treasonable design. If he did, he ought to be expelled; if he did not, there is not sufficient evidence before this body to justify a decision against him.

But, sir, the question is settled; he is to be expelled, and the precedent, such as it is, is to be set. I therefore do not choose further to discuss the question. There is, however, one subject somewhat personal to myself and yet not entirely irrelevant to this question, to which I deem it my duty to allude.

An attempt has been made in the Legislature of my State, and I understand in the Legislature of one or more other States, to reanimate the stiffened corse of legislative instructions—that specious emanation of the pernicious and well nigh fatal doctrine of State rights, a doctrine which, as we all most painfully realize, has well nigh brought down the fabric of our Government over our heads. At this very hour I suppose the Senator from Indiana is on trial in the State Legislature of New York. What the result of the discussion there, which has been continued almost though not quite as long as here, may be, I do not know; nor, sir, so far as my vote upon this resolution is concerned, is it important that I should know. The circumstances under which the attempt to resuscitate this exploded doctrine in the New York Legislature has been made are somewhat peculiar; indeed, sir, they are very extraordinary. Nineteen of my colleagues at the other end of the Capitol, most of them, I think all, my personal as well as political friends, men whom I hold in high esteem, and by whose judgment I would be guided as soon as by the judgment of any other nineteen men, jealous of the honor of their State, and, as I think, and am willing to believe, in the spirit of true friendship, saw fit to communicate with the Legislature of New York, and to solicit that in order to save our noble State from dishonor and disgrace, and perhaps to relieve their humble representative here from a similar dishonor, they should undertake to instruct him as to the vote he should give on this question.

Let me not be misunderstood, Mr. President; I make no complaint of my colleagues; none at all. I regard them all as my personal and political friends; I acquit them all of any intention to injure, or even to censure me; I account for the course they have taken, as I account for much else that has occurred during this discussion, by the peculiar atmosphere that surrounds the Senate; but in my humble judgment, they have gone

aside from duty; I will not say that they have gone beyond the bounds of propriety. I can only account for it, as I have said, by referring to the peculiar spirit that reigns at the present moment, and which, as I have perceived, and as all observing men have perceived, has for the last few days surrounded this Chamber.

Sir, I would willingly, upon most legislative questions, take the counsel of my colleagues in the other branch of Congress, and would obey the advice of my own Legislature. Upon questions of political expediency, upon questions of national policy, I should be strongly inclined to feel that I was wrong and they were right if an expression of opinion amounting to instructions were to be made; but upon a question like this—no legislative question, no question of expediency or policy, but a question of right and wrong, a question of guilt or innocence, a question which is to affect with everlasting disgrace a fellow Senator—I allow no man, no body of men, however exalted, to intervene between me and my conscience. Upon any judicial question, a question that involves the rights of my fellow-man, I answer alone to my conscience and my God.

Sir, this Senate is something more than a legislative body. It shares with the President his executive powers. No treaty can be made; no important appointment to office can be made without the assent and the concurrence of this body. To that extent its powers are not legislative, but executive. So, sir, it possesses judicial powers. It is the body to whom the Constitution has assigned the duty of trying cases of impeachment. I regard this as a quasi case of impeachment. A Senator cannot be impeached, as was well said by the Senator from Illinois [Mr. BROWNING] yesterday; and why? Because the body impeaches him itself; and the Senator from Indiana, in my humble judgment, is to be tried precisely as any other officer of the Government would have been tried if articles of impeachment had been presented by the other House. He is impeached. He is on trial as an impeached officer of the Government. It is a judicial question. Whatever may be the views of the Senator, whatever may be my own views in relation to political questions, or questions of national policy, in relation to the legislative duty of a Senator, so far as it relates to executive questions, and especially so far as relates to judicial questions, the Legislature of my State have no right to interfere or be heard.

Mr. President, this is all I design to say. I have not had a desire to speak upon the merits of the question. I regard that as a settled question, and I will not further interpose to delay the consummation of the purpose of the Senate. The Senator from Indiana is to be expelled. He is to go out from this body under this humiliation. If, as some suppose, he be a traitor, he will ally himself with those who are endeavoring to destroy our Government, and the vote that drives him out from this Chamber will seem to be vindicated. If, on the other hand, notwithstanding this indignity, as he may feel it to be, notwithstanding the provocation that he may have in consequence of this terrible censure, he shall still prove loyal to his Government and faithful to the Constitution, the instructive teachings of the past would lead us to predict that some of us may again see him in this Hall.

Mr. DAVIS. The honorable Senator from New York has just announced that I have made a dozen speeches. Well, sir, he has given me the opportunity of making the thirteenth one. I will give him a baker's dozen. [Laughter.]

Mr. President, some gentlemen who have addressed the Senate upon this subject, and among them the honorable gentleman who has just taken his seat, seem to forget that there is a man charged before the Senate and under trial, and they seem disposed to divert this inquiry and this trial from him to myself. Now, sir, the reason that I have been upon my feet so often has been that gentlemen have not fairly presented my arguments upon the present question, and it was with a view to correct their misapprehensions that I rose to my feet so often; but I tell the honorable Senator from New York, that as to the number of speeches which I make upon any occasion, or as to the manner in which I speak, when I want his advice I will ask for it.

The honorable Senator has ventured and volunteered the position that I appear upon the pres-

ent occasion as the senior prosecuting counsel. If that be true, or if there be any semblance of truth in the position, it can be said with more truth that he occupies the position of the senior counsel for the defense. Sir, what is his position? That, unless this Senate, in their judgment and their conscience, can come to the conclusion that the Senator from Indiana has been guilty of treason, they are bound to acquit him. I differ totally from that position or principle, if principle it may be; and I am not going to restate the argument or positions that brought me to my conclusion of difference from that proposition. But, sir, what is the office of an advocate? It is to make the best of his case by a perversion of truth and of principle, according to my understanding of it. Now, when the Senate of the United States is solemnly engaged in trying the question of the expulsion of one of its members, one of the ablest Senators of the body, who stands probably without an equal as a jurist in the body, gets up and gravely argues the proposition that, unless the Senate are satisfied that the party charged has been guilty of treason, they must acquit him. That proposition, to my mind, is utterly fallacious, false, and monstrous; and yet the Senator assumes that position, and argues it for the exculpation and acquittal of the Senator from Indiana.

Now, sir, that is not hired advocacy. I make no such imputation as that. It could not be. The gentleman's purity of character, I doubt not, is above all suspicion, in every sense of the word; but his feelings are enlisted in favor of the party here under trial; and those feelings, in my judgment, have induced him to take a position in defense of his friend that is wholly untenable in the proceedings of the Senate on a question of expulsion; and if considered and acted upon to the extent he claims, they would be utterly mischievous, and would result in the degradation and impurity of the body. But the gentleman has argued that fallacious proposition with great apparent candor, but with extreme art; and not satisfied with that, he indulges in the pathetic before he closes, and makes moving appeals to the sympathies of the Senate in favor of the Senator from Indiana. It seemed to me that both his sympathy and pathos and his sophistry were misplaced, if he is performing the office of a judge; and I think the gentleman is vulnerable to the same charges that he has made against me, at least.

Mr. President, I deemed it due to myself to get up and make this explanation, though it was the twelfth or the twenty-fourth. Whenever a customer comes, he will find that I am ready for him. [Laughter.]

Mr. FOSTER. The Senator from Indiana yesterday introduced to the notice of the Senate two resolutions, which had been passed, he said, by the Democratic party in his State, and which he wished to be considered as expressing sentiments with which he now agreed. Those resolutions were taken from a number of others, which, he said, as they were of some length, he did not ask to have read. It seems to me, sir, that these resolutions ought not to be taken out of their connection, but should be taken in connection with the others passed at the same time and by the same body. I think it due to the Senator from Indiana, and due to the Senate, that we should know what other resolutions were passed at the time those were passed which he procured to be read. With that view I would ask that the following resolutions, which were passed at that time, may be read. They will occupy but a few moments, and I think it is but justice that they should be read in connection with those which have already been read.

The PRESIDING OFFICER, (Mr. SHERMAN in the chair.) The resolutions will be read by the Secretary.

Mr. PEARCE. I do not think those resolutions ought to be read. I understand the Senator from Indiana has selected from a number of resolutions passed at a meeting in his State two which embody his sentiments, and he desired that they might be read, and might be evidence of his opinions; but he did not say that the rest of the resolutions were evidence of his sentiments. And why are they to be read, sir? I do not know what is in them. There may be something obnoxious to the disapprobation of this body. Is it to fix upon the Senator from Indiana any complicity with these other resolutions; or to en-

deavor to force against him the impression that the obnoxious sentiments, if they be such, are his; or that being the sentiments of those persons who convened that meeting, he should therefore be held responsible for them, or be in any manner prejudiced by them? I think, if there is any such thing in them, it would be very unfair to have them read. They are no part of any proper proceedings in this case, and I object to their being read, unless it is the pleasure of the Senate to order it.

The PRESIDING OFFICER. The Chair cannot determine whether they are proper or not without hearing them.

Mr. FOSTER. It is as far from my purpose as it can be from the purpose of the Senator from Maryland to fasten upon the Senator from Indiana any principle or any resolution which he does not accede to and accord with fully and perfectly. I would go as far as the Senator from Maryland, I trust, in rebuking any disposition to impose on any Senator opinions or doctrines which he disavowed. But I repeat what I said when I was up before, that the Senator from Indiana, having introduced two resolutions here which were passed by a certain political party in his own State, it seemed to me but justice that we should have the other resolutions, passed at the same time and in connection with those, read also that we may see—

The PRESIDING OFFICER. The Senator from Connecticut will pardon the Chair, who desires to have the 14th rule of the Senate read, to which his attention has been called.

The Secretary read it, as follows:

"When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the Senate and without debate."

The PRESIDING OFFICER. It is the duty of the Chair, therefore, under this rule, to submit the question to the Senate.

Mr. COLLAMER. I insist that that rule applies to some paper in the possession of the Senate; otherwise, everything under heaven could come in here.

The PRESIDING OFFICER. It is a question to be determined by the Senate.

Mr. TRUMBULL. I think the Chair is under a misapprehension. The rule evidently applies to papers in the possession of the Senate. We once before had this question up. It relates to papers of which the Senate has possession; not what any member may think proper to bring here, which are not in the custody of the Senate. I apprehend that that rule has no application whatever to a case like this.

Mr. FOSTER. I trust it will not be considered as within the rule, for it will be manifest, I think, on a moment's consideration, that the rule was not intended to apply to a question of this description; clearly not.

Mr. PEARCE. I apprehend that this is the very case to which the rule is intended to apply; and I can see a thousand good reasons for its applying to such a case, which do not apply to the case of a paper in the possession of the Senate. With as much reason might a Senator ask to have this body detained all day while every speech made by every ranting fellow at that meeting was read to the Senate. He might just as well have read to this body all the resolutions passed in all the other Democratic meetings in the country, and all the speeches made in all the meetings of the country; and according to gentlemen on the other side we cannot arrest it, and any one member would have the right to compel the Senate to listen to all the trash spouted in all the popular meetings throughout the country. If the rule was not intended to meet precisely this case, the reason of the rule meets it unquestionably. There can be no purpose which could tend to the settlement of any one's opinion on the particular case now before the Senate to be attained by the reading of the other resolutions submitted to that meeting. They are not applicable to this gentleman's case. They do not affect it one way or the other. Whatever opinions may be expressed in those other resolutions, however obnoxious to censure, or however much entitled to applause, they cannot affect his case; they are utterly irrelevant; and it was for the purpose of excluding irrelevant stuff, I apprehend, that that rule was introduced; and it ought to be enforced, sir.

Mr. JOHNSON. I rise to make a single inquiry. The Senator from Connecticut, as I un-

derstand, had the floor. He was addressing the Senate, and in connection with his remarks he asked that a certain paper be read. I wish to ask this question: whether the Senator has not a right to read it at his own desk or send it to the Secretary's desk to have it read? That is the whole question.

Mr. SUMNER. I was about to speak precisely in the sense of the Senator from Tennessee. It seems to me, if the Chair will allow me, that the rule in question is applicable only to a paper which when offered passes into the possession of the Senate, and that it is not applicable to a paper, whether in print or in manuscript, which a Senator introduces in the course of remarks that he makes. Such a paper is, in point of fact, only a part of his speech, and I take it it is always read at the desk simply to aid the Senator in delivering his remarks.

Mr. PEARCE. Mr. President, if it had been alleged by the Senator from Connecticut that he desired to have those resolutions read as a part of his speech, I admit that would have been a very different thing; but I understood the Senator to rise and state that the Senator from Indiana had read two resolutions which he adopted as expressing his sentiments, and that he thought it was due to the Senate that the other resolutions submitted at that meeting should also be read to the Senate. He did not introduce it as a part of his speech, neither as an argument which he adopted, nor as an argument which it was necessary to present in this case.

The PRESIDING OFFICER. The Chair is not informed of any precedent in the matter. The Senator from Connecticut rises in his place and asks the reading of a certain paper, and takes his seat. The Chair directs the Secretary to read the paper, and a member objects. It is clearly within the language of the rule. There is no exception or distinction made between a paper in the possession of the Senate and any other paper that may be offered in the Senate. The language of the rule is very plain:

"When the reading of a paper is called for, and the same is objected to, it shall be determined by a vote of the Senate, and without debate."

Mr. FOSTER. I will ask that the resolutions be returned to me, and I will read them myself.

The PRESIDING OFFICER. The Senator has a right to read them as a part of his speech.

Mr. FOSTER. Before reading them, I will finish what I was about to say in reply to the suggestion of the Senator from Maryland, that in reading them I by no means intend to impose one word contained in the resolutions upon the Senator from Indiana as expressing his opinions at all, but simply that we may, by having before us all the resolutions that were passed by the body, a part of which he quoted, understand what the body who passed the resolutions, which he himself procured to be read without any objection, intended by them, by taking them in their connection with the other resolutions—not, I repeat, to impose these opinions upon the Senator from Indiana, but to show in what sense the body who passed the resolutions which he procured to be read and to which as I understood he gave his assent, understood those resolutions, and how they would explain them; and that is, by taking them in their connection. The resolutions which he read were simply the ninth and tenth in this series of resolutions, and by taking the whole together it seems to me we can judge, and in that way only can we fairly judge what the body who actually passed them meant by these resolutions. I proceed therefore to read them:

"Whereas, the Democratic party having, from the date of its organization, been in favor of the maintenance of the Union and the preservation of the Constitution, and seeing in the present condition of the country the deplorable effects of a departure from its time-honored and conservative principles, and the triumph of sectionalism; and firmly believing that the Union and Constitution can be preserved alone by the restoration of that party to power, we invite all true Union men throughout the land to unite with us in sustaining its organization and carrying out its principles: Therefore,

"1. Resolved, That we reaffirm and indorse the political principles that from time to time have been put forth by the national conventions of the Democratic party.

"2. That we are unalterably attached to the Constitution by which the Union of these States was formed and established; and that a faithful observance of its principles can alone continue the existence of the Union, and the permanent happiness of the people.

"3. That the present civil war has mainly resulted from the long-continued, unwise, and fanatical agitation in the

North of the question of domestic slavery, the consequent organization of a geographical party, guided by the sectional platforms adopted at Buffalo, Pittsburg, Philadelphia, and Chicago, and the development thereby of sectional hate and jealousy, producing (as had long been foreseen and predicted by us) its counterpart in the South of secession, disunion, and armed resistance to the General Government, and terminating in a bloody strife between those who should have been forever bound together by fraternal bonds, thus bringing upon the whole country a calamity which we are now to meet as loyal citizens, striving for the adoption of that mode of settlement best calculated to again restore union and harmony.

"4. That in rejecting all propositions likely to result in a satisfactory adjustment of the matters in dispute between the North and the South, and especially those measures which would have secured the border slave States to the Union, and a hearty coöperation on their part in all constitutional and legal measures to procure a return of the more southern States to their allegiance, the Republican party assumed a fearful responsibility, and acted in total disregard of the best interests of the whole country.

"5. That if the party in power had shown the same desire to settle by amicable adjustment our internal dissensions before hostilities had actually commenced that the Administration has recently exhibited to avoid a war with our ancient enemy, Great Britain, we confidently believe that peace and harmony would now reign throughout all our borders.

"6. That the maintenance of the Union upon the principles of the Federal Constitution should be the controlling object of all who profess loyalty to the Government; and, in our judgment, this purpose can only be accomplished by the ascendancy of a Union party in the southern States, which shall, by a counter revolution, displace those who control and direct the present rebellion. That no effort to create or sustain such a party can be successful which is not based upon a definite settlement of the questions at issue between the two sections; and we therefore demand that some such settlement be made by additional constitutional guarantees, either initiated by act of Congress or through the medium of a national convention.

"7. That the Republican party has fully demonstrated its inability to conduct the Government through its present difficulties.

"8. That we are utterly opposed to the twin heresies, northern sectionalism and southern secession, as inimical to the Constitution; and that freemen, as they value the boon of civil liberty and the peace of the country, should frown indignantly upon them.

"9."

This is the first, I believe, of the resolutions introduced by the Senator from Indiana—

"That in this national emergency the Democracy of Indiana, banishing all feeling of passion and resentment, will recollect only their duty to the whole country; that this war should not be waged in the spirit of conquest or subjugation, nor for the purpose of overthrowing or interfering with the rights or institutions of the States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished, the war ought to cease.

"10."

This was the other resolution introduced by the honorable Senator—

"That we will sustain, with all our energies, a war for the maintenance of the Constitution, and of the integrity of the Union under the Constitution; but we are opposed to a war for the emancipation of the negroes, or the subjugation of the southern States."

Those two resolutions, the ninth and tenth, were all, as I believe, that were introduced by the Senator from Indiana.

"11. That the purposes avowed and advocated by the northern disunionists, to liberate and arm the negro slaves, is unconstitutional; insulting to loyal citizens; a disgrace to the age; is calculated to retard the suppression of the rebellion, and merits our unqualified condemnation.

"12. That the total disregard of the writ of *habeas corpus* by the authorities over us, and the seizure and imprisonment of the citizens of loyal States where the judiciary is in full operation without warrant of law, and without assigning any cause, or giving to the party arrested any opportunity of defense, are flagrant violations of the Constitution, and most alarming acts of usurpation of power, which should receive the stern rebuke of every lover of his country and of every man who prizes the security and blessings of life, liberty, and property.

"13. That liberty of speech and of the press are guaranteed to the people by the Constitution, and none but a usurper would deprive them of these rights; they are inalienable to the citizen and formidable to tyrants only. And the attempts which have been made since our present unfortunate troubles to muzzle the press and stifle free discussion, are exercises of despotic power against which freedom revolts, and which cannot be tolerated without converting freemen into slaves.

"14. That the seizure of Slidell and Mason on board a neutral vessel on the high seas, was either in accordance with international law, and so legal, or else in violation of such law, and so illegal. If the former, we lament that our nation has been humiliated by their surrender under a threat; if the latter, it was the duty of the Administration at once to have disavowed the act of their officer, and instead of incarcerating the captives in Fort Warren, to have immediately repaired the wrong by placing them, as far as practicable, in the same condition in which that officer had found them. In either event, the action of the Administration was vacillating and cowardly, and degrading to the dignity of a great nation.

"15. That the action of the Republican party, as manifested in the partisan character of all appointments of the Administration to civil office, and in holding party caucuses

by the Republican members of Congress for the purpose of impressing upon the legislative action of that body the peculiar dogmas of that party, have demonstrated that their professions of 'sacrificing party platforms and party organizations upon the altar of their country,' are but so many hypocritical and false pretenses by which they hope to dupe the unwary into their support; and we warn all loyal persons, as they love their country, not to be deceived thereby.

"16. That the disclosures made by the investigating committee in Congress of the enormous frauds that have stalked into the Army and Navy Departments, implicating the heads of those Departments in a connivance at, if not an actual participation in, a system of corruption, and in which our brave soldiers have been defrauded of their proper supplies, and our Government threatened with bankruptcy, demand a thorough investigation into all our expenditures, both State and national, and that a speedy and marked example be made of all such 'birds of prey,' who, taking advantage of the necessities of our country, have fed and fattened upon public plunder.

"17. That the meritorious conduct of the Indiana troops in every battle-field where victory has perched upon the national banner, has filled the people of this State with the highest gratitude to her gallant sons; and that we send our best wishes to officers and men, dispersed throughout the country, and the heartfelt greetings of every Democrat for their further brilliant achievements in the coming contests for the maintenance of the Constitution and the Union."

I repeat again, Mr. President, that it is no part of my purpose to assert or to imply that the Senator from Indiana gives one word of assent to any of these resolutions except those two which he has introduced, and to those only in the manner which he himself stated. I thought it, however, due to us that we should understand the connection in which those resolutions were passed, and by hearing those passed at the same time, we could understand better the sense in which the body who passed them understood them.

Mr. BRIGHT. It was purely accidental that I made an allusion yesterday to the resolutions that have been read by the Senator from Connecticut. The honorable Senator from Virginia [Mr. WILLEY] was kind enough to suspend judgment in this case until he should have heard all the facts, and signified a wish that I should enlighten the Senate upon one point. I presented to the Senate the resolutions numbered nine and ten of that series, passed by one of the largest political conventions that ever met in the State I represent here, which met on the 8th of January last, and I stated that those resolutions embodied my views on the single point on which the Senator was inquiring. I did not read all the resolutions, for the reason that there is something in their language that might be considered personally offensive to Senators who differ with me politically, and it has never been any part of my practice here, either by what I have said or read, to give offense. I therefore did not read the entire platform laid down by my political friends in that convention. Stripping those resolutions, however, of all that may be personally offensive, and looking only at the political principles enunciated in them, I have no hesitation in saying here, before the vote is taken, that I indorse them in all their height, length, breadth, and depth.

Mr. BAYARD. Mr. President, after the brief remarks which I made at the opening of this debate, it was my intention not again to open my lips while the resolution now before the Senate was under consideration, and after hearing to-day the eloquent and dignified address of the honorable Senator from New York, [Mr. HARRIS.] I hesitate in abandoning that intention. The wide range of remark, however, departing entirely from the charge upon which the committee reported, and the elaborate and labored speeches which have been made, reviewing adversely the whole political career of the honorable Senator from Indiana, for the purpose of arraying prejudice against him in support of an unsustained charge, combined with my personal regard for that honorable Senator, and my confidence in his integrity, forbid my adherence to my previous determination. It will be my endeavor to bring back the debate to the real question before us for decision, vindicate my own opinions, and sustain the report of the committee.

I shall also controvert some of the principles which have been advanced in the debate by those who support the resolution.

The action of the Senate in all cases of expulsion must of necessity be judicial. I freely admit that by the terms of the Constitution the power of expulsion is absolute in two thirds of the members present constituting a quorum, and that there is no restriction on the power expressed and no specification of the grounds on which expulsion

must be based. It is none the less judicial action. It is the punishment of an individual by deprivation of an office which he is entitled to hold unless criminal misconduct is proved against him. You may expel by the mere two-thirds vote of the Senate without any cause whatever, but that would be not the rightful exercise, but a gross and tyrannical abuse of power. The punishment of an individual for misconduct in any mode, whether by deprivation of office or otherwise, in all free countries must necessarily be a judicial question, whatever may be the forum or the body in which the decision is to be made. The forms of proceeding in courts of justice may be dispensed with; the mere model rules of evidence may not be essential; but the great leading principles of evidence in all judicial trials cannot be abandoned without palpable injustice where punishment is to follow the sentence of any tribunal. I care not whether you call the offense charged criminal misconduct or a misdemeanor; there must be an alleged charge proved according to rational inference from the facts adduced in the case, or else injustice must be done. Difference of opinion, however wide, no matter how exciting or grave a subject on which that difference exists, will not justify an expulsion, unless, indeed, the doctrine is to obtain that a political party, having a two-thirds majority in this Chamber, can rightfully crush all opposition to its general policy or its particular measures by this power of expulsion. In my judgment, such can never be a rational construction of the Constitution of a free representative Government, be that Government a monarchy or a republic.

Sir, the precedents are in accordance with this. In Blount's case the judgment of the Senate was nearly unanimous. It was on criminal misconduct charged and proved in the case. In Smith's case the charge also was for participation in a conspiracy to destroy the United States or to subvert its Government as to a portion of its territory. Not sympathy with Mr. Burr, not intimacy with Mr. Burr, but participation in his conspiracy was the charge in the resolution for the expulsion of Smith, on which the vote of the Senate was taken, and which failed on the yeas and nays by one vote. In both those cases the Senate allowed counsel to the accused, and he was charged with a distinct and specific act of criminal misconduct. It matters not whether the conduct of Blount amounted to a misdemeanor which could be reached by the statute law of the land; it was criminal misconduct proved in the case; and the action of the Senate was judicial. In the case of Smith it was not only criminal misconduct, but if true and proved, it was a crime under the statute law, and could also have been punished by the sentence of a court. Of the jurisdiction of the Senate in both these cases or in this I have no doubt. But unless the action was intended to be judicial, it is impossible to suppose that the Senate on those resolutions for expulsion would have allowed counsel to be heard in defense of the accused. The whole course of the proceedings was also of a judicial character.

But, sir, in the case of Smith, the report in which has been most freely quoted from in this case, the question on which the vote of the Senate was taken was the resolution of expulsion for participation in Burr's conspiracy; but no vote was taken on the report of the committee. As I dissent from some of the principles of that report, and it has been frequently quoted in this debate, I shall take the liberty of reading the remarks of one of the ablest and purest statesmen who has existed in this country, in that debate, to show, not only by the weight of his character but the strength of his argument, that one, at least, of the principles advanced in that report is utterly untenable, and that the course of proceedings must be of a judicial character when the action of the Senate is on a question of expulsion. I read from the Annals of Congress the remarks of Mr. Hillhouse, of Connecticut, after the argument had been made in support of the resolution which was before the Senate. He said:

"The cause before the Senate has been so fully heard and so ably discussed that it was my intention to have given a silent vote, had not the gentleman from Massachusetts (Mr. Adams) declared in so pointed a manner that even voting on the resolution would sanction the report of the committee which accompanied it; a report containing principles which I can never sanction by my vote; principles which go to discredit all our criminal tribunals, and those rules of proceeding and of evidence which govern the decisions of courts; rules which alone can shield innocence, and protect an accused individual against a governmental

prosecution or the overwhelming power of a formidable combination of individuals determined on his destruction—principles which would plant a dagger in the bosom of civil liberty."

Now for the argument:

"Of the many erroneous principles contained in that report, there is but one which I shall think it necessary particularly to notice. The question (says the report) upon the trial of a criminal cause before the courts of common law is not between guilt and innocence, but between guilt and the possibility of innocence. This is a principle which I can never sanction, nor in the smallest degree countenance by my vote. In every country where civil liberty and individual rights are regarded, the common law rule is, that the trial is between innocence and guilt; and that every person is to be deemed innocent until his guilt is proved; a rule which, so long as we shall preserve our liberties, cannot be abandoned. Once admit that the person accused is to be presumed guilty, and to be put to prove the possibility of his innocence, and the same circumstances that would otherwise go to establish innocence would be converted into proof of guilt. In the present case, admit the presumption of innocence, and many parts of the conversations and conduct of the member accused, which are now relied on as proof of his guilt, may be accounted for as being exactly what an honest, unsuspecting man would have said and done; but upon the supposition that he was engaged in Aaron Burr's conspiracy, many presumptions of his guilt may be drawn from them."

Mr. President, I consider this argument in support of a principle which ought to apply to all cases of expulsion as unanswerable. The presumption is here, as in a trial at law, in favor of innocence. The proof is on those who allege the right by the vote, whether of two thirds or four fifths of the Senate, to deprive a Senator of his seat in this body, on the ground of misconduct. I care not about technical rules of evidence; but there are great and essential principles of justice which must be adhered to, unless you mean to punish not for misconduct, but as the result of prejudice and party bias. What has been the course in this case? The charge of disloyalty founded on the letter of the 1st of March, 1861, made against the honorable Senator from Indiana was referred to the Judiciary Committee; and on investigation and proof of handwriting, the committee, though composed of five out of seven of the political opponents of the accused, by a vote nearly unanimous (with but one exception) made a report in his favor, and adverse to the resolution of expulsion. It was the result of the unbiased judgment of the committee as to the rational inference of the intent of the writer, on full consideration of the whole circumstances under which the letter was written. It is a matter of regret to me that one member of the committee should since have changed his opinion. I have a sincere respect for that honorable Senator; but I cannot but believe, from the reasons he has assigned, that he will hereafter regret the change of his vote.

Since this debate began, widely different and multifarious grounds of accusation have been presented to the Senate, commencing with the honorable Senator from Kentucky, (Mr. DAVIS,) and have been urged in support of the resolution of expulsion; and the extreme variance of the reasons assigned by honorable Senators, extraneous to the charge made and investigated, by which it is sought to overrule the report of the committee, afford but too pregnant evidence that judicial inquiry is to be abandoned, and political bias and perhaps personal hostility to the Senator from Indiana to be substituted as a sufficient reason for his expulsion. I shall not pretend to answer the accusations founded on mere differences of political opinion, and I have not the semblance of hope that the prejudice which that line of argument may have produced can be dispelled by any argument of mine. I shall confine myself to the charge of misconduct, which is the only legitimate ground on which the action of this body can be based. Though the letter is very familiar to the Senate, as I mean to comment upon it briefly, I will now read it:

WASHINGTON, March 1, 1861.

MY DEAR SIR: Allow me to introduce to your acquaintance my friend, Thomas B. Lincoln, of Texas. He visits your capital mainly to dispose of what he regards a great improvement in fire-arms. I recommend him to your favorable consideration, as a gentleman of the first respectability, and reliable in every respect.

Very truly yours,

JESSE D. BRIGHT.
To His Excellency JEFFERSON DAVIS,
President of the Confederation of States.

This letter, it is argued, is evidence of disloyalty, if not of treason, on the ground that it develops an intention to afford aid and assistance to a public enemy. Two principal reasons are assigned for this: first, the address of the letter; second, the

character of the invention recommended. Let us look at the circumstances under which the letter was written, and see if by rational inference disloyalty or treasonable intent can be justly attributed to the writer.

Six States—I think six, perhaps five—at the time claiming, though erroneously, a reserved right of peaceful secession, had withdrawn from the Union and organized another government, of which Mr. Davis was elected president or head. The writer had no authority to recognize the legality of the act, nor, as he tells you, did he intend to do so; and his past action in this body, his past course in seventeen years of senatorial service, is the best evidence of his loyalty to the Government. He never advocated the doctrine of secession; and it is strange indeed if, because his personal and political relations induced friendly feelings towards Mr. Davis, the existence of those feelings is to be assumed as the semblance of evidence of a disloyal intent. This organization existed in fact, and the letter was a mere letter of introduction, addressed to Mr. Davis by the title which he claimed, purely as an act of courtesy, and not of recognition. Suppose the letter had been one intended to dissuade Mr. Davis from the course on which he had entered, and to endeavor to prevail upon him to abandon it, and use his influence to bring those States back into the bosom of the Union, would it be expected, if that letter had not been addressed to him by the title he claimed, that it would even be received, much less read?

The address was a mere matter of courtesy. It acknowledged a fact, but not the legality of the office or title claimed by the person to whom it was addressed; and can the language of courtesy be rationally perverted into evidence of a disloyal intent?

If the character of the letter read here had been such as for the sake of argument I have supposed, who would have pretended that it was the intention of the writer to recognize the legality of this recently-organized confederacy because it was addressed to the president of that confederacy, which was in fact organized? The subject of the letter does not alter the inference as to the intent of the writer as drawn from the address, though it may be clearer and more undeniable in the one case than the other.

Again, the language is "my dear sir;" and that shows to my mind, incontrovertibly, that it was the language of friendly relation, and not intended to be the language of official recognition. I have confined my remarks hitherto to the address; for if that was not intended to recognize the legality of the position of Mr. Davis, there is no other aspect in which it can be viewed as disloyal or treasonable.

Next is the inference of disloyalty drawn from the object with which the introduction was sought—an improvement in fire-arms. What, sir, was the condition of the country at that time? It has been said—and the acts have been detailed *seriatim*—that war had been levied against the United States, certainly not by the confederate States as a political body, though acts of violence had been committed by the authorities of particular States. What might have been the decision on those acts upon the trial of the actors, is not the question here; nor can any inference of guilty intent in the writer of the letter be drawn from the fact that such acts would, by the ruling of a court, be held technically a "levying of war." The question is, was the country at war with this actually organized confederacy, to the president of which the letter was addressed? Did public opinion, or the unsuspended intercourse which existed in all parts of this country, cause men to believe that war existed or was imminent at the time this letter was written? Mr. President, your postal communications, your telegraphic communications, the entire traveling of the community, its commercial intercourse was carried on at that day in just as unrestricted a manner as it had been before. Neither the then President nor Congress, the sole powers who have a right to recognize a state of war, had given that character to the acts which are now proclaimed to be a levying of war. Nay, more; forty days afterwards the present Executive of the United States disclaimed the idea that any war then existed, or that it would probably ensue. Of course, the views expressed by the present head of the Government would naturally weigh more with honorable Senators than any belief that was

entertained by those who were opposed to him; and therefore I will read again, though I have referred to it before, an extract from Mr. Seward's dispatch to Mr. Adams, under date of 10th April, 1861, forty days after this letter was written. Says the Secretary of State:

"For these reasons, he [the President] would not be disposed to reject a cardinal dogma of theirs, namely, that the Federal Government could not reduce the seceding States to obedience by conquest, even although he were disposed to question that proposition. But, in fact, the President willingly accepts it as true. *Only an imperial or despotic Government could subjugate thoroughly disaffected and insurrectionary members of the State. This Federal republican system of ours is, of all forms of Government, the very one which is most unfitted for such a labor.* Happily, however, this is only an imaginary defect. The system has within itself adequate, peaceful, conservative, and recuperative forces. Firmness on the part of the Government in maintaining and preserving the public institutions and property, and in executing the laws where authority can be exercised *without waging war*, combined with such measures of justice, moderation, and forbearance as will disarm reasoning opposition, will be sufficient to secure the public safety until returning reflection, concurring with the fearful experience of social evils, the inevitable fruits of faction, shall bring the recalcitrant members cheerfully back into the family, which, after all, must prove their best and happiest, as it undeniably is their most natural home."

He then goes on to speak of the Constitution of the United States providing a mode in which these States may be restored to the Union by the action of a national convention, "in which the organic law can, if needful, be revised so as to remove all obstacles to a reunion so suitable to the habits of the people and so eminently conducive to the common safety and welfare." Did the President of the United States, when that missive was written, which represents his sentiments as well as those of the Secretary of State, believe that war existed, or that war was imminent? If not, why impute to the honorable Senator from Indiana a view of the condition of the country not entertained by them? Why impute to him, for the purpose of conviction in this case, a prophetic knowledge which neither the President nor the public at large possessed in reference to the issue of the struggle which had then commenced? Sir, it was a political revolution which had commenced; but neither the general opinion of the community, nor the opinion of the then or of the present Administration, was that it would eventuate in war. Is not the intent of the honorable Senator from Indiana as to the subject on which he gave this recommendation to be inferred from the general belief entertained by him, in common with others, that the curse of war would not fall upon our country; that whatever other issue might come, at least we should be saved from the horror of civil war? And if that was his belief, how irrational is it to draw the inference, from a mere letter of introduction, that he intended to recommend a fire-arm with a view to resistance to the Federal Government, and the advancement and promotion of the objects of its enemies, foreign or domestic. It is impossible for any man, unless he believes that the honorable Senator, at that time, entertained the opinion that war existed or would come, to infer from his letter that his object was to aid and promote the cause of revolt against the Federal Government; and if he intended not that, if he intended not to give aid and comfort to the enemies of the Federal Government, call the letter indiscreet, if you will, but where or in what else consists the evidence of disloyalty, much less of treason?

I have read every speech made in this debate, not having been able to hear all of them; but it is not my purpose to answer the arguments which have been adduced by various Senators. To the argument of the honorable Senator from Wisconsin, who addressed the Senate yesterday, [Mr. DOOLITTLE,] I have a short reply to make. I admit that he treated this case with entire frankness; that his argument was confined to the charge before us; was able, though, I think, somewhat exaggerated in language, and erroneous, beyond all question, in the inferences that he drew. His argument was based upon this idea: that no man of common reason supposed that this Government could be subverted without resistance by war. I give, not the particular language, but the substance of his argument.

Mr. President, I agree with that position of the honorable Senator from Wisconsin; but was that the condition of things? Would this Government have been subverted; would it now be subverted, if its territorial jurisdiction was less extensive than it was before these unhappy troubles

commenced? Were we not a Government and a Union before Texas was admitted or California acquired? Were we not a Government and a Union before Florida was acquired? Were we not a Government and a Union before Louisiana was acquired? How then can I be told that this Government is destroyed and subverted because certain separate communities composing a section of the country choose to absolve themselves from its jurisdiction, and to deny that they will longer live under a common Government with us? At the time, and subsequently to the time, this letter was written, their commissioners were here for the purpose of treating for a peaceful separation from the Union, and remained in this capital unmolested. Was such a fact possible if war had been deemed to exist, or was even considered probable then? It may be said, and has been said, that to admit the peaceable separation of those States would be an acknowledgment of the right of secession. Not so, Mr. President. The right of secession could not be admitted consistently with the existence of the Government; but a greater principle lies beyond it. When communities exist, as the States of this Union do, without reference to the question of State rights, as separate communities of people, if it enters the hearts of the people of a large section of country, and the masses determine that they will no longer live under a common government, it is not conspiracy; it is the revolt of a nation. You can meet it by war, or by accepting the revolution which they have commenced. No one doubts that the right rests with Congress to decide on that point; that they have the unquestionable right to force those States back by war and subjugation into the Union, if they believe that the great interests of the country require it, and the future welfare and prosperity of the people, and that the result can be achieved by war; but if they have that right, they have also the right, if they deem that the interests and welfare of the country require a different course, to declare to a disaffected people, consisting of varied political communities connected together and contiguous, and no longer willing to live under a common government with us, that we decide, as a matter of wisdom and policy, to let them part from us in peace. In such a case, it is a question of dominion, and not of the subversion of the Government.

But, Mr. President, the argument of the honorable Senator from Wisconsin omitted another alternative altogether. He says no man could rationally believe that a subversion of the Government (which he presumed must ensue from the separation of a portion of the States from the Union, though I do not), could possibly take place without war; but he does not look to the belief entertained by the President and by the Secretary of State forty days after this letter was written, that there was another alternative, and that though revolution had commenced, it might be stayed and the Union preserved by conciliation and compromise. Conciliation and the means of adjustment, a national convention, was the doctrine of the President, as given to us by the Secretary of State, under date of April 10, 1861. Let me read a further extract from his instructions to Mr. Adams of that date:

"You will indulge in no expressions of harshness or disrespect, or even impatience, concerning the seceding States, their agents, or their people. But you will, on the contrary, all the while remember that those States are now, as they always heretofore have been, and notwithstanding their temporary self-delusion, they must always continue to be, equal and honored members of this Federal Union, and that their citizens throughout all political misunderstandings and alienations, still are, and always must be, our kindred and our countrymen."

Is such language applicable to a state of war? Does such language refer to a condition of affairs which required my honorable friend from Indiana to abandon all intercourse with his deluded fellow-countrymen in these confederate States? And yet it is the language used by your Secretary of State, as representing the sentiments of the President of the United States, forty days after this letter was written.

Mr. President, the guilty intention which alone constitutes the misconduct charged against the honorable Senator from Indiana, that he wrote this letter to aid, assist, or abet, or whatever technical terms you prefer, or, if you please, to advance the interests of the confederate States, is, in my judgment, utterly rebutted by the view taken

of the state of affairs forty days afterwards by the President and Secretary of State. War did not then exist; war was not by them believed to exist. Yet during the recess of Congress, who but the Executive of this nation has the authority to judge and determine on the state and condition of the country in regard to the existence of war? The intercourse, as you well know, was entirely uninterrupted. On what principle, then, of reason or justice can it be contended, when the mind of the public generally at that day, and the mind of the President of the United States and his Secretary of State, both intelligent men, at a much later day, did not believe that the political revolution which had commenced would issue in war, that my friend from Indiana is to be assumed guilty of an intention to aid the new confederacy in a war which neither he nor the people generally then believed would take place? Sir, no rational inference of guilty intent can be drawn under such circumstances. The intent must be inferred from the belief of the writer at the time the letter was written, and not assumed from the subsequent condition of affairs.

I know, sir, it is very difficult for men to carry their minds back to the tone of sentiment and belief which existed nine months ago; but I should suppose that in the Senate of the United States, acting on a judicial question which involves the punishment of a brother member, the effort would be made to regard the intent of the writer as derived from the relations subsisting at the time the letter was written, between the people of the United States and those of the confederate States, and not from the very different relations which have existed since hostilities commenced. The honorable Senator from Indiana has told you, in the most express terms, that after the proclamation of the President—after the evidence that war existed, or his belief that war would ensue, he would have addressed neither the letter in question nor any letter to the president of the confederate States.

But, sir, this was a mere letter of introduction; and in writing such a letter the writer regards mainly his relations to the party who requests it. I speak now to men's general knowledge. It is true that I labor under the misfortune that most of those who are to vote on this occasion are unwilling to listen to my views; their minds are made up; but it none the less is true that the views I have submitted may reach the common sense of justice of my countrymen, though they may be unheard within these walls. I say that the mind of the writer of a letter of introduction rarely dwells on anything but his relation to the person who requests it. If those relations are friendly it is never refused. The object is almost universally stated, whether of business or of pleasure; but the thought of the writer seldom, if ever, reflects upon the object where it is given to one with whom he stands in friendly relations. Every one knows this by his own experience; and yet judgment is to be pronounced here on a mere letter of introduction, imputing an intention which never could have entered into the mind of the honorable Senator from Indiana. In this case there is evidence of that, because he does not recommend the improvement; he does not profess the slightest knowledge of the fact whether it is or is not an improvement; he merely says that Mr. Lincoln considers it a great improvement. If the intent had been to give aid and comfort by affording to the president of the confederate States, then in rebellion against the United States, a weapon of war which would be formidable if war ensued, the writer of the letter would have informed himself as to the character of the invention, and would have expressed his opinion upon it. A recommendation without knowledge of the value of the alleged improvement might be an injury instead of a benefit, and Lincoln was neither an inventor or a man of science. He recommends his friend, to get rid, perhaps, of importunity, without the slightest reflection on the object; for the state of the country did not lead him to imagine that war between the confederate States and the United States was existing or likely to exist. The question being one of intent, can it rationally be inferred from this letter, written under such circumstances, that the author intended to aid, promote, or advance the interests of the revolted States by recommending to them a means of warlike resistance against the United States? Can any man read the letter with reference to the condition of

affairs, and suppose that was the intention. If no such intention existed, the letter proves nothing.

But, Mr. President, in the discussion of this case, the honorable Senator from Massachusetts, in the speech which he first addressed to the Senate, entered into a very ingenious, and to my view a very perverted comment upon the contents of this letter. Indeed the line of argument adopted by him brought forcibly to my memory, though it is many years since I read the record, the line of argument adopted by the Crown counsel on the trial of Algernon Sydney for treason, when they urged as evidence of treason their own interpretation of passages taken from his political treatises as proof of treasonable intent on the part of the prisoner. They brought Sydney to the block. The subsequent judgment of the world has vindicated his fame and his character, and also passed in condemnation upon the line of argument by which he was convicted.

The Senator said that the words "yours truly" were not merely formal words. Mr. President, take your own experience; let any one who hears me answer the question whether there is a more common formality in the conclusion of letters, where the slightest degree of friendly relations exists between the parties, than to sign a letter "yours very truly." Even to mere acquaintances a letter is oftentimes so concluded; but to those having the remotest relations of personal regard, it is almost an invariable mode of conclusion. Yet we are told that these words, so universally attached to all letters between persons standing in the slightest degree of friendly relation, are to be taken as evidence that the honorable Senator from Indiana belonged to the rebel chief, and was one of his conspirators! I suppose if the letter had been addressed "sir," and had concluded with the phraseology "your obedient servant," the Senator would have argued, "there is an express acknowledgment of allegiance; the words 'your obedient servant' are not formal words; they are an acknowledgment of allegiance to the president of the confederate States." The one inference would be as reasonable as the other. Yet the deepest prejudice would scarcely fail to perceive the fallacy of such an inference.

I shall not pursue further the argument in reference to the intent to be drawn from the contents of this letter; not because I do not think it could be pressed further, but because I am aware, as has been announced by the honorable Senator from New York, that the *fact* has gone forth, and that the judgment of the Senate will certainly be rendered against the party accused. I have said enough for my own purpose to vindicate my own vote, and to place the question, at least before my constituents, in its true light. But, sir, the argument beyond and extraneous to the charge on which the Senate professes, by its resolution, if passed, to expel the honorable Senator from Indiana, has been conducted by many Senators on the ground that opposition of opinion to coercion by arms, as either not within the limits of the Federal Constitution, or as being an impolitic act, and utterly unavailable for the purpose of restoring the Union in its integrity, is evidence of sympathy with the South, and therefore of disloyalty. If this be a ground of expulsion, there is, indeed, an end to representative government. The vital spirit of all representative governments, be they monarchical or republican, is the unlimited freedom of debate in the representative body, and unrestrained freedom of opinion. Destroy that, put down the collision of opinion which we suppose, in representative governments, leads ultimately to the truth, and you degenerate at once, no matter what name you may give to your government, into an arbitrary despotism. It is none the less a despotism because it may be a government consisting of numbers instead of the government of one man.

Sir, I will endeavor to illustrate this by reference to a debate which occurred in the British Parliament during our own Revolution. It is perfectly well known that after the Declaration of Independence there was great excitement in England, great unanimity of opinion, and that ministers carried in Parliament their measures for the suppression of the rebellion by at least three fourths of the body. The general sentiment of the people, and of Parliament, was in favor of the subjugation of the colonies. Yet, sir, as early as 1776, in the month of October, or November, I do

not recollect which, in the course of a debate on an address in answer to the Crown, Mr. Fox said:

"It has been said that we are reduced to the dilemma of conquering or abandoning America. If that be the alternative, I am for abandonment."

Sir, I have no doubt that the practical zealots of that day in their hearts denounced Mr. Fox as disloyal to his country, because there can be no question that the colonies owed allegiance to the British Crown; there can be no question that our Revolution was rebellion; there can be no question that—though we believe, and I believe, that there were justifiable causes for the act—the British Government and the British people did not believe the Declaration of Independence was justified by any sufficient cause. Sir, I never heard that in the Parliament of Great Britain, monarchical as that Government was and is, even the suggestion was made that Mr. Fox should be expelled, because he entertained an opinion which went to the dismemberment of the empire of England. He stood with a small band of far-seeing men then, and the subsequent judgment of the world has acknowledged not only his patriotism but his statesmanship, and his memory needs no defense, though he held the doctrine at that time that it was wiser for England to abandon a contest in which he believed she could not succeed in achieving her objects, than to pursue it at the risk of a countless cost of treasure and of human lives for a fruitless purpose.

Sir, it was the freedom of debate whether he was right or wrong. Suppose he had been wrong—because it was just after the battle of Long Island and the capture of New York, when things looked favorable to the success of the British arms—suppose he had been wrong, would that difference of opinion have justified his expulsion from the body, or even the charge of disloyalty against him? If this great principle of the freedom of debate, of dissentient opinion on the gravest subject which could come before them, as this now is one of the gravest subjects that can come before us, was allowed in a Government of that nature, is it true that in a representative Republic freedom of debate is to be less cherished and less protected? Sir, I give this view as the general answer, and as sufficient, without entering into the details, to the arguments submitted on the other side on these questions of divergent opinions, or votes against the policy or measures of the majority, unless prejudice and partisan hostility is to decide the expulsion of a member, and not a proved charge of criminal misconduct.

The honorable Senators from New York, New Jersey, and Pennsylvania [Messrs. HARRIS, TAYLOR, and COWAN] have placed this question of the true and only proper grounds of expulsion in so impregnable a position, that as I cannot add to their argument, I will not mar it by repetition. The country owes them its thanks for the calm and judicial manner in which they have treated the question; and if not now, at no distant day the dignity and propriety of their course will be fully appreciated.

Sir, I recall now the opinion I expressed in the remarks which I first addressed to the Senate at the opening of this debate, that "I did not believe it possible a majority of the Senate could vote for this resolution." I viewed it as a judicial question then; I so view it now; and it was so treated in the committee; but unfortunately for a just and correct decision of the case the spirit of party has been invoked; the press has assailed not only the honorable Senator from Indiana, where his personal rights are at stake in a judicial inquiry, but also those members, or some of them, who have denied that there is sufficient ground for his expulsion. Nay, the want of fealty to party of honorable Senators has been charged as a default on their part unless they voted for the expulsion of the honorable Senator from Indiana. As you have heard, nineteen members of another branch of the national Legislature, derelict to their entire duty, to the respect that is due to this body, have undertaken to interfere with its judicial decisions on the rights and defaults of its own members, and to bring the bias of partisan zeal to bear upon the judicial action of the Senate in a matter in which interference on their part is a shameful violation of duty, by asking the Legislature of a State to instruct a Senator how he is to vote as a judge on a question involving personal rights, the evidence not before them, and the argument unheard; and

yet this is but one of the steps of party taken in this case. I have also heard—and if the allegation be untrue, I shall be glad to be corrected—that party caucuses of more or less of the members of this body have been held to compare opinions and influence votes upon a judicial question. If that be so, of course we cannot expect anything but a mere party decision.

Mr. SHERMAN. Will my friend allow me? Mr. BAYARD. Certainly.

Mr. SHERMAN. My friend alludes to caucuses in this matter. I never have heard of any such, and I do not think any have ever been held.

Mr. BAYARD. I have no doubt the honorable Senator from Ohio was no party to them. I have heard so often and so repeatedly that such meetings had been held, that unless it was generally denied I could hardly disbelieve it.

Mr. BROWNING. The Senator from Delaware will permit me to say that this is the first intimation I have ever had that a caucus was held or contemplated in regard to this matter. Nor have I ever conversed personally—I speak for myself alone—with any Senator upon this subject, upon any occasion when I expressed to him my own opinion, or when I asked him to express to me his in regard to the disposition that should be made of the case. I am not willing that the imputation made by the Senator from Delaware shall go to the country unrepelled by one Senator at least.

Mr. BAYARD. I stated expressly that I desired to be corrected if the fact were not so. I had heard it repeatedly alleged, and if Senators are aware that it is not so, I have no charge to make on any knowledge of my own.

Mr. BROWNING. I would be glad if the Senator, when he makes a charge of so grave a character, would give the basis on which he states it.

Mr. BAYARD. I will state to the honorable Senator that I have heard it repeatedly.

Mr. BROWNING. Heard it of whom?

Mr. BAYARD. These things, the honorable Senator well knows, are matters of rumor, so that I cannot say who told me. I did not suppose it would be denied, even. I heard it spoken of repeatedly.

Mr. BRIGHT. I will relieve the Senator from Delaware, if he will allow me a moment. I told him.

Mr. BAYARD. I did not recollect that.

Mr. BRIGHT. At least I will state what I did tell him. On the first day that the Senate met this session, I met my colleague on this floor, and I said to him, "I have no personal claim on you, sir; you and I have been opposed through life, politically; but still I have claims upon you as a colleague, so far as to call upon you to enable me to establish my guilt or innocence against certain men that have been fulminating all kind of calumnies against me during the recess." I was charged in some of the western papers with having received a commission as a brigadier general in the southern army. That went the rounds of the public press. It was charged again, that at my farm in Kentucky I had a headquarters for recruiting rebel soldiers. Calumny upon calumny of that kind was heaped upon me. I took no notice of them whatever, except to reply to the inquiry of a friend in reference to the genuineness of the letter which forms the basis of this accusation. When I met my colleague on the first day of the session, I said to him, "these things have made an impression on the public mind, and I ask you to do me the justice to introduce a resolution into the Senate to inquire into my guilt or innocence in reference to every one of these charges." He said, as I expected to hear him say, that he would do it. He knows that I was expecting him day after day to do it. At the close of the first week of the session my colleague was kind enough to call upon me, and state that he would have to be relieved from the promise he had made me; that my case had been the subject of caucus, and that it would be introduced into this body. I said to him that I made no complaint whatever; that in whatever form it came before the body I trusted I should be ready to meet it.

Mr. LANE, of Indiana. I want to say one word in explanation just here if the Senator from Delaware will allow me. My recollection of the matter is simply this: I told the Senator from Indiana, on the first day of the session I think, that I should feel it my duty to introduce a resolution

of general inquiry in reference to the loyalty of Senators. A caucus was called, not having any reference whatever to the case of the Senator from Indiana. I told our friends there that I should feel bound to introduce such a resolution. It was talked over with the express understanding that no man was bound in a case like this by anything that was done in caucus; but it was thought better that the matter should assume another form; and the Senator from Minnesota [Mr. WILKINSON] stated that he would introduce this resolution; this I told my colleague. That was all my connection with it. There was no determination in caucus on the subject: upon the contrary, it was said expressly by the Senator from New York, [Mr. HARRIS,] and others, that it was not a fit matter for a caucus decision, and that nobody was bound by what might be said there.

Mr. BRIGHT. My colleague has stated just what I knew from his antecedents he would state. There is nothing in his statement inconsistent with mine. He bears evidence to the truth of my statement that at our first meeting I asked him, as my colleague, to inquire into this case; and the reason he declined was the reason which I stated to the Senator from Delaware. I was unwilling that the Senator from Delaware should be placed in a false position; and I thought it was my duty, as a just man, to state where he got his information from.

Mr. BAYARD. Mr. President, I do not consider myself placed in a false position at all. The honorable Senator from Indiana misunderstands what I have said. I stated what I had heard, and said expressly that if it was erroneous I desired to be corrected. I had heard it as general rumor; and now when the Senator from Indiana mentioned the fact, I had no recollection of his having spoken to me on the subject. I had heard it from several persons; but it was one of those rumors which we so constantly hear in Washington, oftentimes false I admit, that I could not say from whom I heard it. I did not make any imputation, but stated what I had heard, leaving Senators to deny it if it were not the fact. I said that if it was true, it was only further evidence that party spirit had improperly entered into the determination of this case. With the explanation of the honorable Senator from Indiana [Mr. LANE] just made, I am perfectly content to believe that no caucus was held for the purpose of determining this case; but it is admitted that political opinions were compared on the general question of the propriety of entering into inquiries as to the loyalty of members. That, it is admitted, was the subject-matter of party conference. It is unnecessary for my argument, and I never desire, even against a party, much less against any member of a party, to make an imputation which cannot be established. I meant to make none such. I made a statement of what I had heard, leaving it to the correction of Senators. But apart entirely from any senatorial caucuses, the other facts are undoubted and undeniable. The spirit of party has entered into the decision of this question, having been invoked for that purpose.

Sir, the spirit of party, always remorseless and unreasoning, is never just or wise in its dealings with individuals. I know it will not only tolerate, but approve of injustice to those against whom it may be arrayed, particularly in times of high excitement; and its influence is the more dangerous because too often it operates unconsciously on the minds of even moderate and reflecting men, and warps and perverts their judgment. With the mass of partisans its sway is overwhelming, and reason and justice perish under its malign influence. It is true, too, that power never makes men better; and therefore a wise and reflecting man will always endeavor to guard himself against its insidious and unconscious influence, and inevitable tendency to abuse. Shakspeare was right in his description of its effects upon man, as he always is when delineating human virtues, human vices, or human frailties:

"But man, proud man!
Drest in a little brief authority;
Most ignorant of what he's most assur'd,
His glassy essence—like an angry ape,
Plays such fantastic tricks before high heaven,
As make the angels weep: who, with our spleens,
Would all themselves laugh mortal."

Sir, if this case were to be decided judicially on proved acts of misconduct, I should not fear its result; but if, as I now believe, the spirit of party is to determine it, if the letter of the honorable Senator from Indiana is to be read, and its intent

inferred by partisan bias, or if he is to be punished by deprivation of his seat because his views and opinions as to the policy and measures required for the interest and welfare of our common country in the present disastrous and lamentable crisis may differ from those of the majority of this Chamber possessing the power of expulsion, I cannot hope that justice will govern the decision. He will add but another victim to the many who in past time have been sacrificed at the shrine of party, and he must look for redress to that natural sense of justice among men which, in cases of individual oppression, will always sympathize with and sustain the oppressed when the hour of passion and prejudice has passed.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) Is the Senate ready for the question on the adoption of the resolution?

Mr. BRIGHT. If no one else wishes to address the Senate, I have a few remarks to make before the vote is taken.

In the personal aspect of the question it would perhaps be better that I should have said weeks ago what I shall say to-day; but not anticipating that the subject would occupy as much time as it has consumed, or that such importance would be attached to it, I was content to leave it with the members of the Judiciary Committee. I stated at the close of the debate on Friday last that I might, before a final vote was taken, offer a few remarks more in the form of a statement of facts than an argument in my own defense. I realize the truth of what I believe is generally regarded as a maxim, "that no man is a wise or safe counselor in his own cause;" but as there are now three Senators present that were not here for several days after this subject had engaged the attention of the Senate, I think it due to them that I should make a brief explanation of the facts which form the basis of this arraignment. I allude to the honorable Senator from Virginia, [Mr. WILEY,] who has been absent on account of indisposition, and the honorable Senators from Missouri lately admitted.

Further, Mr. President, I wish to make my acknowledgments to the members of the committee who so unanimously reported against the adoption of this resolution, even although one of the number [Mr. FOSTER] has since given way under the unprecedented pressure that has been brought to bear upon him. I regret this, sir, as much on his as on my own account. The reasons he has assigned may be, and no doubt are, very satisfactory to himself; but I apprehend they will not be so to the friends of even-handed justice.

It is due to myself to say that I do not propose to appeal to any Senator to support the report of the committee. No, sir; my main object is to place myself right on the page of history. If I can accomplish this, I am content, let the result be what it may.

I confess, sir, that I have been amazed at the party organization exhibited on what has been so justly and ably treated as a judicial question by every member of the Judiciary Committee who has spoken in favor of the report. I may well fear my inability to succeed against so formidable an array of accusers, and such a variety of accusations. I said, on a former occasion, that had I known of the full proportions of this organized effort to take my seat from me, and the means to be employed to effect it—that the charge of disloyalty (for that is the only specification in the resolution) was to be added to and multiplied at the will and pleasure of every speaker—that every vote given or opinion expressed not in conformity with the peculiar views of those who are my accusers and prosecutors, was to be brought against me as a crime, I might with the greatest propriety have asked for counsel; but conscious that I have not said, done, written, or voted anything inconsistent with the prerogatives of an American Senator, I did not ask it, and I do not regret not having done so.

I shall not attempt to shield myself from the partisan blow's leveled at me with such fury by interposing legal forms and technicalities. Let the light of day be poured in upon every act of my political life proper to be inquired into in this connection, and, as I said on a former occasion, I repeat now, I challenge investigation.

I have had hitherto no reason to doubt that my political action was approved by the people of the State of Indiana, for thrice has she honored me by election to this body, and on each occasion with

a unanimity among my political friends, and by majorities of which any man might well feel proud. Nay, more, sir; the Journals of this body, during my long service here, contain the evidence that I have shared largely in the confidence of its members and the honors they have had to confer. I do not refer to these facts in a spirit of egotism, but as affording the most pointed answer that can be given to such Senators as have questioned my antecedents, and sought to prejudice me in the estimation of my countrymen.

I come now, sir, to the *gravamen* of the offense charged against me.

On the 1st day of March, 1861, I wrote the following letter:

WASHINGTON, March 1, 1861.

MY DEAR SIR: Allow me to introduce to your acquaintance my friend Thomas B. Lincoln, of Texas. He visits your capital mainly to dispose of what he regards a great improvement in fire-arms. I recommend him to your favorable consideration as a gentleman of the first respectability, and reliable in every respect.

Very truly, yours,

JESSE D. BRIGHT.

To His Excellency JEFFERSON DAVIS,

President of the Confederation of States.

It becomes important at the threshold of this inquiry to ascertain who Thomas B. Lincoln is; whether he is "a gentleman of the first respectability, and reliable in every respect," (in the language of the introduction,) or is he a man of doubtful character? Would his past life prove him to be an honest or a dishonest man? Is he or was he a loyal or disloyal citizen at the date of my letter, and upon what do I or did I base my opinions? These I deem important inquiries, to be answered before I go further, for in giving such an indorsement as I gave to Mr. Lincoln, I am responsible for the truth of what I said.

My acquaintance with Mr. Lincoln commenced about the year 1837. He removed from the city of Philadelphia to Madison, Indiana, where I then resided, and was practicing my profession. Mr. Lincoln was both a wholesale and retail merchant, and did a very extensive business. During his residence at the place last mentioned, which was between three and four years, I generally attended to his legal business. On winding up his mercantile affairs, which I think was in 1841 or 1842, he removed to Texas, leaving with me the collection of a large amount of outstanding debts. I think it was not until 1851 or 1852 that I had a final settlement with Mr. Lincoln, which resulted in my purchasing from him a considerable amount of real estate, and there being a defect in the titles, I was kept in occasional correspondence with him up to 1854 or 1855. About this time, Mr. Lincoln connected himself with was known as the Texas land grant, and formed one of many of a large company that conceived the idea of making a railroad to the Pacific coast. About this time Congress had under consideration the same subject. This brought Mr. Lincoln to Washington each session thereafter as regularly as Congress met. It so happened that I was one of a special committee of nine raised in the Senate on the occasion to consider and report upon some plan or route of railroad to the Pacific. This again brought me in communication with Mr. Lincoln. Seldom a week passed that he did not visit me at my house. I was always glad to see him, and whenever and wherever we met, I recognized and treated him as a friend and a gentleman. I may here add that Thomas B. Lincoln is well and favorably known in his native city of Philadelphia, and in the community in which I live. He is known to many of the citizens of Washington, and very well known to all those Senators and Representatives who took an active part in the great enterprise I have mentioned. I never heard aught alleged against his honesty, integrity, or loyalty until I heard of his arrest in the city of Cincinnati, in July or August last, on suspicion—mere suspicion—of being in complicity with the southern rebellion. There were found in his possession, among his papers, two letters written by me; and if he had had his business budget with him, there would no doubt have been found hundreds of letters from me, running back during the last twenty-three or twenty-four years. Having read one letter which was found with Mr. Lincoln, I now read the other:

WASHINGTON, June 27, 1860.

DEAR SIR: I take pleasure in introducing to you an old and valued friend, Mr. Thomas B. Lincoln. He has a proposition to make you connected with a kind of machine he understands you are using in the public improvements under your control. I commend him to you as a reliable gen-

man, in every sense of the word, and bespeak for him your kind consideration.

Truly yours,
Captain FRANKLIN.

J. D. BRIGHT.

Mark you, this letter forms no part of the accusation against me. It has been certified to here by the officer who has custody of it, for the purpose, I suppose, of showing that I had been in the habit of corresponding with Mr. Lincoln. I am glad it has been done. It enables me, from the face of different papers, penned at different periods, to show what my relations were with Mr. Lincoln, and my opinion of him, long before even the thought of disunion was expressed.

The Senator from Maine, [Mr. MORRILL,] in his assault upon me, laid great stress on the cordiality of feeling expressed in my letter of the 1st of March, both toward the person to whom it was addressed and toward the person in whose behalf it was written; and volunteered the opinion that it sounded like the language of a courtier. I have none other than a mere passing acquaintance with that Senator, and his total ignorance of my character is disclosed by venturing to make such an imputation upon it. If he knew me better, he would have known that whatever my defects, this was not one of them. With more sycophantic smiles, and fewer looks and tones of defiance since this prosecution commenced, I can scarcely doubt that I should have lessened the number of my prosecutors, and abated the venom of their attacks; but with entire confidence in my innocence and integrity, all I ask, or have asked, is justice.

I wish now to call the attention of the Senate to the similitude of language in each of these letters. When the first was written, I was chairman of the Committee on Public Buildings and Grounds. Captain Franklin, to whom it was addressed, was in charge of the Capitol extension, and to some extent under their direction. This brought me in daily communication with Captain (now General) Franklin. No doubt Mr. Lincoln knew this, and solicited the letter, stating what his object was. I have been in the almost daily habit of giving letters of introduction to friends and acquaintances for years past, as a matter of course, and as I presume most members of Congress have, particularly those who may be in sympathy with the party in power at the time. In the letter to Captain Franklin, I stated what Mr. Lincoln's business was:

"He has a proposition to make to you connected with a kind of machine he understands you are using in the public improvements under your control."

I further said:

"I commend him to you as a reliable gentleman in every sense of the word, and bespeak for him your kind consideration."

In writing such letters, my mind, and I presume that of others, dwells almost entirely on the relation the person asking it bears to me, and I have no recollection of but a single case in which I ever refused a letter of introduction to a friend or acquaintance. I have given them, as of course, where I had confidence in the character and standing of the applicant, and generally stated, as he requested, his object in asking for the letter, without even a thought in relation to that object.

But it is also asserted that the address of the letter to Mr. Davis as president of the confederate States is evidence of disloyalty. My answer is, that I had neither the authority nor intention to recognize the lawfulness of his claim to the office he held in fact, and I suppose I addressed him as a matter of courtesy by the title he claimed, and, in doing this, did no more, as was well said by the Senator from California, [Mr. LATHAM,] than was repeated by Senators on this floor, in open debate, both before and after the date of my letter. I had been, for many years, on terms of friendly personal and political relations with Mr. Davis, and in common with those who knew him, had a high opinion of his character and capacity, and, of course, felt justified by those but recently severed relations in giving a letter of introduction to him, without any reference to the position he claimed; nor did I then, for a moment, believe that civil war could or would be resorted to as a remedy for the settlement of our sectional difficulties. Nay, more, for weeks before, and for days, if not weeks, after this letter was written, letters and documents were transmitted by your mails, addressed to Mr. Davis by the same title, without objection, or giving rise

to the idea that such an address was a recognition of his lawful title to the office he claimed, or any impeachment of the loyalty of those who directed them, or permitted their transmission. One of the Senators from Texas, on this floor, repeatedly showed documents and letters that he had directed at his desk here to the president of the confederate States.

Subsequent to this letter for more than a month persons claiming to be commissioners from this new confederacy were residing in this capital unmolested, and in communication, whether formal or informal is immaterial, with the Secretary of State.

The postal, commercial, and traveling intercourse of the people of the United States was continued as before the commencement of this revolution, and yet a mere letter of introduction, written during this state of affairs, for a friend of twenty years' standing to another I had known almost as long, is now perverted in its intention, and held to be evidence of disloyalty.

I felt at the date of this letter, in the language of the President, uttered three days thereafter, and repeated by himself and his political friends for weeks thereafter, that there could not, must not be war; that we were friends and not enemies; that our unfortunate sectional difficulties would be settled peacefully, but never by the power of the sword.

But, say some of my accusers, "you must have known, despite of all this, that war was upon us;" others say, "you must have known that it was inevitable." To this illiberal, unjust imputation of prophetic knowledge on my part I oppose history and facts. Contemporaneous with the scenes and incidents I have mentioned came the voice of the people of Tennessee, declaring by a majority of thirty thousand that she was for the Union and Constitution and against secession; and the sound had scarcely died upon our ears ere we heard its reverberation from that mother of States, Virginia; and following her example came Kentucky, Arkansas, and North Carolina. With this cordon of loyal border southern States, who believed that a soldier would ever be sent from north of Mason and Dixon's line to enforce obedience to the Constitution?

Again, sir, many of the leading Republican journals of the country were open and unreserved in their advocacy of a peaceful separation. Among them was the New York Tribune, commencing its advocacy of this policy as far back as December, 1860. Distinguished public functionaries of the Republican party openly avowed this policy, and I can name them if my statement is denied. As late as April 10 the present Secretary of State in his dispatch to our minister at London said:

"The President neither looks for nor apprehends any actual dismemberment of the American Union, especially by a line of latitude." "The movement, therefore, in the opinion of the President, tends directly to anarchy in the seceding States, as similar movements in similar circumstances have already resulted in Spanish America, and especially in Mexico. He believes, nevertheless, that the citizens of those States, as well as the citizens of the other States, are too intelligent, considerate, and wise to follow the leaders to that disastrous end. For these reasons he would not be disposed to reject a cardinal dogma of theirs, namely, that the Federal Government could not reduce the seceding States to obedience by conquest, even although he were disposed to question that proposition. But, in fact, the President willingly accepts it as true. Only an imperial or despotic Government could subjugate thoroughly disaffected and insurrectionary members of the State. This federal republican system of ours is, of all forms of Government, the very one which is most unfitted for such a labor. Happily, however, this is only an imaginary defect. The system has within itself adequate, peaceful, conservative, and recuperative forces. Finances, on the part of the Government in maintaining and preserving the public institutions and property, and in executing the laws where authority can be exercised without waging war, combined with such measures of justice, moderation, and forbearance as will disarm reasoning opposition, will be sufficient to secure the public safety until returning reflection, concurring with the fearful experience of social evils, the inevitable fruits of faction, shall bring the recalcitrant members cheerfully back into the family, which, after all, must prove their best and happiest, as it undeniably is their most natural home. The Constitution of the United States provides for that return by authorizing Congress, on application to be made by a certain majority of the States, to assemble a national convention, in which the organic law can, if it be needful, be revised so as to remove all real obstacles to a reunion, so suitable to the habits of the people, and so eminently conducive to the common safety and welfare."

In view of all these historical facts, how can any candid, impartial mind reach the conclusion that on the 1st of March, 1861, I knew there was war existing, or that war was inevitable? Add to

this, the timid and time-serving policy of the late Administration, in frequent consultation with the immediate friends and commissioners of the southern organization, allowing his political friends and the press of the country to announce and re-announce, daily, that there could and would be no war—that Fort Sumter would be evacuated and peaceful relations established; and you have another key to the delusion under which thousands and hundreds of thousands of loyal Union men in the South as well as in the North were laboring. Up to the day that Fort Sumter fell, I believed, with the President, that "we were friends; not enemies." I wrote of them, and to them; I spoke of them, and to them, as I ever had; but here, sir, the curtain fell; this was an act of war, and from the date of the President's proclamation we were enemies, not friends, in the belligerent sense of the term. Acts which before the happening of this event were legitimate and lawful, become now illegal and in some instances treasonable. The shipment of provisions, the sale of all kinds of munitions of war, that had been publicly carried on between the North and South, and was an everyday occurrence up to this time, suddenly, and by this act of war, and by virtue of the proclamation of the President, became illegal and treasonable; and after the occurrence of these events, I should never have felt myself at liberty to address a letter of introduction to Mr. Davis.

No man disputes this; but are you going to say that every man who engaged in trade, commerce, or correspondence with the South prior to this time is disloyal, and guilty of treason? Are you prepared to assert this principle of *ex post facto* tyranny? If so, who can fix a limit to offenders, and to what a farce do you reduce that principle of eternal justice which has in all ages of the world been the shield and protection of the citizen?

I return again to my letter, and after a short statement, which shall be substantially a repetition of what I said before the committee, will dismiss it as far as I can from my mind.

I have not the most distant recollection of having written either of these letters. I said so in my letter of explanation to Mr. Fitch, which has been introduced here and criticised with such severity, because of the bold avowal of opinions which I honestly entertained. I said the same to the committee, and I repeat it here to-day. So little impression did this act of courtesy for a friend make on my mind, that to this hour I cannot call to mind when, where, or under what circumstances the letter was written, and I may say the same of the letter to Captain Franklin. When I saw the letter published marked "private and confidential," I said that the language of the letter was my style, that Lincoln was an old friend, and that if he said I had given him such a letter it must be so; that the words "private and confidential" I seldom put on any letter, never in a letter of introduction. A friend soon after wrote me that I was correct on that point. Still, it has gone to the world in that form, and all the prejudice that such an addition to the letter would create has attached, and my enemies have the benefit of it, in swelling the volume of opposition that arrays itself against me.

Another argument against me is that, after I took my seat here, I said that I would do the same thing again under the same circumstances, and defend it here or anywhere else. I did say so, and I repeat it; and I meant by that just this, that when I gave that letter to Mr. Lincoln, the idea of war or of a hostile collision with any one or more of the southern States never entered my mind. It could not; I know it did not. If even a gleam of such a suspicion had entered my mind, every instinct of my nature would have deterred me, to say nothing of those prudential considerations which I trust have governed me in all the relations of life.

I was asked by one of the honorable committee whether I would have given such a letter after the fall of Fort Sumter. I unhesitatingly answered: "No, sir; I would have regarded the request on the part of an intelligent man, under such circumstances, as an insult."

Mr. President, it is only since grave Senators have been betrayed into dignifying this matter with a public examination that I could bring myself to realize that any man who knew me believed that I was faithless, in any sense of the term, to the obligations I owe the Government of which I

form a part; but I am no longer left to conjecture on this point; I am bound to believe, from what I see passing around me, that there are those who think I am less loyal than themselves; and while I laugh to scorn such an absurdity, I shall not, under the present frenzied state of excitement, attempt to wrestle with or alter those opinions, or influence their votes; nor will any conclusion that may be reached here or elsewhere alter my opinion of myself, or change the *quo animo* of my heart as coupled with this transaction. God and myself know that, and not suspicious, fallible man.

I have already devoted more time to this letter than it merited at my hands, for no one who has observed the direction this debate has taken believes that the letter forms any part of the reason for my expulsion. I wish now to call the attention of the country to the various phases this case has assumed in its progress.

The resolution for my expulsion was based solely on the letter. Both were referred to the Judiciary Committee; and after hearing the facts, six out of seven members reported against the passage of the resolution; whereupon the mover of it asked to have it made a special order; and then commenced party drill, prepared speeches, and a general plan of attack on my fitness and qualifications to sit in a legislative council with such patriarchs in their country's service as the Senator from Massachusetts [Mr. SUMNER] and the Senator from New Hampshire, [Mr. CLARK;] even the nerves of the honorable Senator from Pennsylvania [Mr. WILMOR] and the not less distinguished Senator from Tennessee [Mr. JOHNSON] are affected by my presence here. I am not loyal enough for either of them. Oh, I must have degenerated in the last ten years! In 1850, I was elected by a vote of the Senate as one of the committee of thirteen, of which the patriot and statesman, Henry Clay, of Kentucky, was chairman, and having as part of its members Webster, Calhoun, Cass, Clayton, Berrien, and others, and I contributed my humble efforts (very humble, I admit, when compared with theirs) to effect a general adjustment of all sectional issues then exciting the country. I voted for all the compromise measures embraced in the report of Mr. Clay, and against the honorable Senator's odious proviso, as I have against all sectional issues, whether they came from the North or the South, ever since I entered this body. I voted on every call of the roll where I was present last session for the peace propositions of the Senator from Kentucky, [Mr. CRITTENDEN,] and I used whatever of influence I had with southern Senators, all to do the same thing. Though representing a free State, I have never given a vote that can be called sectional, to the best of my knowledge. I have named these two measures as affording some evidence that I would rather have peace than war, and hoping it may have a soothing influence on the excited state of mind the Senator from Pennsylvania is laboring under.

The Senator from Tennessee has criticised with great severity a letter I wrote to one of the best and truest friends any man ever had, (Mr. Jonathan Fitch,) in which I represent myself as standing on the subject of coercion just where the President stood in his inaugural address, where the Secretary of State stood on the 10th of April last, and where I understand other Senators and members now stand. It may be very wrong, but as I am thirty years of age, the Constitution supposes that I am capable of thinking, voting, and speaking for myself; and I am quite sure my constituency would think much less of me than they do if they supposed that any man or party could force me into the formation or expression of opinions or a line of political action inconsistent with the time-honored creed of the great Democratic party, to which I have ever belonged, and whose principles and policy can alone, in my judgment, restore this country to its former proportions, and make us once more a united people—a result that I would make any sacrifice on earth to effect. The honorable Senator from Tennessee must allow me to take counsel of my constituency as to what they consider my duty on all these questions.

Mr. President, my own self-respect and the respect I entertain for the admitted constitutional right that every representative enjoys under our form of Government, of forming and expressing his opinions in a decent and becoming manner,

forbids me from entering upon a defense of the opinions I have, during a service of seventeen years, announced and voted in this body. The only tribunal on earth that has a right to arraign and try me on these issues is the people who sent me here; and if, under the excitement and prejudice of the hour, it is the pleasure of those who have got the power to use it, I shall appear again before that tribunal and ask a full, fair, and impartial hearing, and, judging the future by the past, I have no fear of the result. All I ask of each and every one of my constituents is the charity of their silence until the time comes that I can meet them face to face.

From the hour this war actually commenced, I have had in view in every act of my life, public and private, one single object—the reunion of these States. I have not to this hour, with all the clouds that hang upon us, despaired entirely of this result; and there is no sacrifice that one man could make that I would not make to effect so desirable an object. I may differ with others, not less honest than myself, as to the means to effect this object, but I trust I am none the less honest in my purpose, or devoted to a form of Government that, up to the commencement of our present troubles, had conferred more of the blessings of civil and constitutional liberty, regulated by law, than any Government known to history. Every impulse of my heart, every tie that binds me to earth is interwoven with the form of Government under which I am living, and to which I acknowledge my allegiance. I will yield to no man living in my attachment to it. Few men of my years have enjoyed more of its glorious advantages; none feel more grateful for them; and though I have been assailed in the fury of party spirit, my character unjustly aspersed, and my loyalty and devotion questioned, this shall not alienate me from the faith of my fathers, or lessen the obligations I feel to devote the humble energies of my life to the support of the Government of which I form a part, and which I would not exchange for any other on earth.

This may be the only opportunity I shall have of expressing my gratitude to the members of the Judiciary Committee who have, from that innate sense of justice that always governs a just judge, stood by their report, and rising above the storm of passion that seems to control the hour, resolutely maintained the total absence of all guilt on my part. They have done me justice; and if my antecedents as a private citizen and public servant have not proved a shield against criticism, and are not a sufficient guarantee, I give to them the pledge of an honest heart that my future life, wherever fortune may place me, shall leave them no cause to regret this act of justice.

I am not informed as to the opinions of Senators on this question, except as they have declared them in debate or volunteered to make them known. I have approached no Senator to know his views, or sought to influence his vote except in debate. I have had no outside friends soliciting the aid of the public press with which to manufacture public opinion in my favor. Conscious of the purity of my intentions and purposes in all that relates to the interests of the Government to which alone I owe allegiance, I had a right to suppose that my peers would rise above the behests of party, and look upon this transaction in its true light; but this is a matter that I have not attempted to control. If the Senate has been polled, as I see it stated in some of the papers it has, and it is a foregone conclusion that go I must, I say to my friends and to my enemies I will lose no time in putting myself on trial again before a tribunal whose judgment I have ever found just, and who I am sure will give me all the benefits resulting from an acquaintance of forty years' standing, coupled with a service that entitles them to judge whether I am a loyal or disloyal citizen; whether I have been a faithful or unfaithful representative of their rights in the many and varied duties they have intrusted to me to perform.

I will go with my record made in this Hall in one hand, and the record of those whose voice sends me from it in the other, and I will submit to them the question of right or wrong in this case. I will go with the platform of principles laid down by the party that I have acted with through life, and which I referred to yesterday, and in the name of those principles, and in the name of the Constitution that I have ever tried to support in letter

and in spirit, and I will ask a fair and impartial hearing. This, and this only, is the tribunal with whose judgment I will be content.

I have now said all I intended or should have said, but for some remarks made yesterday by the honorable Senator from Virginia, [Mr. WILLEY.] His bearing and manner toward me was in such striking contrast with that of the Senator from Tennessee, who is so similarly situated and affected in his political and personal relations by this unnatural war, that I could but remark it. The former with a fairness and candor that sunk deep into my heart, did me the justice to say that he had seen nothing in my past life that rendered me obnoxious to the charge of contributing in the least degree to the deplorable condition of affairs now upon us. If the honorable Senator from Virginia had known my course here as some others know it, he would have done me justice in adding that the blood of no one man attaches to my skirts in this strife. I have had but one countersign since I have been on duty here, and that has been—peace; war never—never—for any real or imaginary grievance.

But how different was the tone and manner of the Senator from Tennessee. Causes of complaint I know he has; and I sympathize with him in his afflictions, and would that I had the power to lift the load of sorrow that is bowing him and thousands and tens of thousands of others to the earth. Point me to the road that leads to peace, the restoration of the Union, making us one Government, with one flag, not a star effaced, and I will travel it with you as long as there is a gleam of light to guide me on such a path; and, forgetting and forgiving, I would even consent to take as a traveling companion, with all his heresies, the Senator from Massachusetts. Sir, the Senator from Tennessee has done me great injustice. Smarting under the blows inflicted by the conduct of those he called "a close corporation" when here, he points to my personal and party associations with them—forgetting, at the same time, his own—and undertakes to hold me responsible for all that was said and done then, and has happened since. History, facts, living witnesses, repel these unfounded, absurd accusations.

The honorable Senator from Maryland, [Mr. KENNEDY,] moved by a sense of justice and love of truth, vindicates history in his late speech on some of these points. He well recollects the appeals made by himself, myself, and other Senators, (some of whom are still here,) to southern Senators to remain, give to the incoming Administration a fair trial, and seek a remedy for all wrongs inside, not outside of the Union. If, sir, I had been privy to any such purposes as have since resulted in forcible resistance to the Government of the United States, why did I join with the honorable Senator from Maryland and others in remonstrating against this suicidal step? The Senator from Tennessee cannot believe, *he knows*, that I had no part or lot in any movement having for its object the disruption of these States. I have been as open in my opposition to secession as any man living.

The honorable Senator from Virginia, in the remarks I have alluded to, made yesterday, asked me to explain the concluding paragraph, in a letter I wrote Mr. Fitch in September last. In doing so I must preface what I have to say with the single remark that I deem it due both to him and myself, if he thinks my position an equivocal one, to answer; but I beg it will not be construed as an effort on my part to influence the vote of the honorable Senator. As much gratification as it would afford me to have the weight of his name as a Senator and a distinguished member of his profession, I cannot consent to be placed in the position of seeking votes by any change or modification of my opinions for the time being, and I know that the honorable Senator would not have me do it. I said on a former occasion, that as far as principles are concerned, my opinions are fixed. In the execution of details connected with the administration of general governmental affairs, I have always endeavored to conform my action to the policy of those in charge of the Government; and when I could not do so, I never made factious opposition. So, under this Administration, when I differed, I have said so in a becoming manner, I trust, and left those who have the power to assume the responsibility of exercising it.

I have ever been opposed to the principle of coer-

cion. I believed, in the language of the present Secretary of State, used on the 10th of April last, "that this federal republican system of ours, of all forms of government, is most unfitted for such a labor." Coercion was war; and in the language of the late Senator from Illinois, war was disunion. Earnest in these opinions, I joined others in urgent appeals to the late Administration to withdraw our forces from Fort Sumter, and make our differences the subject of peaceful arbitration. And, sir, down to the day this letter is dated, and even down to the 3d of March, the day the late President left the executive mansion, I believed this would be done; and I had every reason to think so from the course of those who alone had the power to do it.

But when hostilities commenced at Fort Sumter an entire new feature presented itself. This act, followed by the proclamation of the President, was war, and while my opinions as to the policy of resorting to coercion, even then, as a remedy in the first place, remained unchanged; and while I differed entirely with the line of policy pursued by the late as well as the present Administration in the conduct of affairs at Charleston, I never hesitated as to my duty towards my own Government, and that was to sustain it, as I have done, in all that related to its efforts to defend the remaining States from invasion, and in all its efforts to enforce obedience to the laws of the United States, within constitutional limits, within all the States.

One other remark, and I am done. This outrage upon the right of representation of a sovereign State is the volunteer offering of partisan proscription, and intended as a condemnation of my political opinions, and as a consequence of my indorsement of the platform of principles which has so lately been declared by the great party that I claim to represent, and whose action I have avowed my purpose to maintain. Let the country bear witness, that no legislative body in Indiana, no conventional action, no appeal from the gallant men of her army have petitioned you to strike this blow; still, I say, let it come. The decree of that remorseless tyrant, Caucus, has been issued, and I bare my person to the blow, unawed, I trust, even though coupled with the threat of banishment made on yesterday by the brave, gallant, chivalric, polished, classic Senator from Massachusetts. If I am to fall, of which I entertain no doubt, it shall be with my face toward my accusers, and into the arms of a people that I have ever found just and swift to vindicate the right.

Mr. TEN EYCK. I wish to say a word before the vote is taken. I must say a word. I feel the pressure of this moment. It is also fraught with consequence to me. I know the feeling of this Senate. I respect it. I know the tone and temper of the press. It is fierce and clamorous. I hear the public voice. It is loud and clear. My nearest friends have urged, have threatened, and entreated me. They say my grave is dug. It may be so. This has made me pause; this has caused me to consider; this has led me to distrust my judgment and the correctness of my views. I have thought and pondered on it. I have tried to see it otherwise. My prejudices, I confess it, have assailed me. My hatred of the horrid crime of treason has made war with me. But, sir, this question is not simply a political one. It is a judicial one, involving sacred rights of person—rights dear as life itself. Would you take human life without a pause? Would you take human life without sufficient evidence? Would you take life without the benefit of reasonable doubt? What matters it whether you take life or blast a man as with a stroke of fire from heaven? It is not a question for a day; it is a question for all time to come. It is a question on which rests the stability of this Senate; the stability of the Government itself.

Sir, I see no cause to change, at least no cause sufficient. I have made up my mind to fall, if fall I must, honestly adhering to what I think is right, rather than stand amidst the triumphs of the hour self-condemned and self-abased. The opinion of my fellow-men I highly cherish; no man can do so more; but I would not yield my sense of right nor lose my self-respect to gain or keep it. Sir, impugning no one here or elsewhere for the course he shall pursue in this respect, I shall trust to a calmer and more thoughtful hour for justice and

for judgment on my course. All I ask of those who dig my grave for doing what I think is right is this, that they will also place a rough stone at its head, and on it write these simple words: "He dared to do what he thought was right." [Applause in the galleries.]

The VICE PRESIDENT. Order!

Mr. COWAN. Mr. President, I have a single word to say in explanation of the vote I am about to give, and I desire to say it out of the respect which I entertain for my many friends, both here and in the great State I have the honor to represent. I have been exceedingly unfortunate in the consideration of this case. I certainly entered into it desiring, if I could, to be fair and impartial. The only fear I then entertained was, that if I erred at all I should err in not giving to the Senator from Indiana a fair trial. Certainly, I had no prejudices in his favor. Certainly, I had nothing to gain by befriending him. Certainly, I have nothing to gain now by opposing what I think I may say is the universal sentiment of my State. Instead of that, I have everything to lose. But, Mr. President, faithful to the obligations of duty, true to the impulse of my conscience, I would rather be torn with wild horses here on this floor than yield my convictions at the dictation of anybody. I am a free man, free born. No man is my master; no man has yet been my master; no man shall hereafter be, in any way. When a duty is intrusted to me, I trust I shall be able to perform it. Weak I may be; I desire the applause of my fellow men. There is not an individual in my State, however humble, whose good will I would not desire to have. I have not, I think, said a word, or uttered a thought, which was calculated to reflect upon anybody. I have not argued the case of the Senator from Indiana, nor have I prosecuted him. I stood here to give him a fair, impartial trial, as an American Senator in the Senate of the United States. Why, I ask, should it be denied him? If he is guilty, is not that the way to ascertain it?

I have been utterly astounded that honorable Senators in this high place should insist that we should reverse all the laws and all the rules which have existed from time immemorial for the ascertainment of guilt or innocence. I say what I wanted was that the Senator from Indiana should have a fair trial. I have said distinctly that if I believed the facts, according to the hypothesis in this prosecution, (because I must call it such,) I would not only go as far as gentlemen on this floor propose to go, but I would go a great deal further. If the charge which was submitted to the Judiciary Committee of this body to be investigated, and which is specified and distinct upon its face, is a true charge, it is treason. If it is not that, it is nothing. Let us not despise the wisdom of the past. What is crime? Where is crime? Inside the human heart, or out of it? Every line of your criminal law, every line of the criminal law of the civilized world is that the intent is the crime—not the act done outside, but the intent with which it was done.

When I entered upon the investigation of this case, I inquired into the intent of the Senator from Indiana in writing the letter; and I may say here, that I will never consent to sit in judgment upon any man unless the charge against him be distinctly written down. I would not do it upon the humblest man of the humblest race, and much less I would not do it upon a fellow Senator. The charge must be written down, and upon that charge and that charge alone I will give judgment. If he is to be tried upon another charge, let those who make it write it down, and put it upon the record, so that we may know what it is.

Here, sir, was a charge written down. What was it? That he wrote a letter, with a good intent or a bad intent; one or the other. If it was with a good intent, nobody can quarrel with it. Nobody can deny that inference. If it was a bad intent, then I understand exactly the offense with which he was charged. The Legislature of my State have left it to me to say whether I believe, upon all this evidence, that Mr. BRIGHT is an enemy to the cause of the country. That cause I have at heart just as much as anybody else, and would be just as willing to imperil myself in it as anybody else, although I am not constantly vaunting it everywhere. They left it to me, if I believed from this evidence and this charge specifically made, to which they referred specifically, that he

was an enemy to the great cause of the country, that I should vote to expel him.

Now, Mr. President, I say I cannot find it. I am not here to guess about this matter. I am not here to suspect. It may be that Mr. BRIGHT is an enemy to the cause; it is within the range of possibility; but I cannot lay my hand upon my heart and say so. Outside people who have no responsibility may decide differently. It is very easy for them to say "this man is guilty and ought to be turned out," and all that kind of thing; but, perhaps, if they stood here under the responsibilities which are upon us they might have some difficulty. I cannot lay my hand upon my heart and say that Mr. BRIGHT is an enemy to the cause of the country. I cannot say that he wrote that letter with a treasonable intent, and for the simplest reason in the world, I do not know it.

Mr. BRIGHT has said repeatedly—and that is the evidence we have about it; that is the evidence of his letter; the evidence of his continued declarations, and there is no evidence to the contrary—that he has no recollection of writing that letter; and he says further, that under the same circumstances, so little recollection has he of it, so inadvertent was it, that he should write it again. That remark has been made a handle of here. A great many people have said, if he had not said that, they would have thought better of him. Why, sir, every man is bound to say that. If you charge me with a crime committed with a wicked intent, then I can avoid that hereafter; but if you charge me with a crime which does not exist in the intent, but which may be a thing of thoughtlessness, a thing of inadvertence, nobody can; and I never heard it disputed even in the humblest court of justice, much less did I suppose I should ever hear it doubted in the American Senate. I cannot say this, and I cannot say it from the evidence I have of the intent. It is true gentlemen see fit to believe differently from me. That I cannot help. I have not reflected upon them. I have reflected upon nobody. I have merely attempted to do my duty here for myself, and I intend to do it according to my best belief and conscientious conviction upon the subject.

Mr. President, I have but a word more to say, and I am sorry I am obliged to say it. If Mr. BRIGHT is expelled from this Senate, and I am asked, when I go out this year, next year, ten years or twenty years from this time, if God spares me so long, what was the charge against him, what was the specific, distinct offense of which the Senate of the United States found him guilty, I could not tell. I could state, "here is the charge put upon the records of the Senate; but I am very free to say I heard a great many gentlemen wander away from that charge, and put it upon other grounds, and I am not prepared to say he was not convicted in the minds of a great many for something else than that charge." I lament this. I lament it for various reasons. I lament it for reasons which prevail to-day, and I lament it for reasons which must prevail in all time. The charge, I say, should be distinct and specific, and we should agree upon it. It should not be a thing left to doubt; left to be suspected at all. It should be clear and certain, as it is in a court of justice.

I have been charged with looking upon this case as a lawyer. I am only sorry that I could not look upon it more as a lawyer. Why should not a lawyer look upon it better than anybody else? Why should not a carpenter build a better house than a shoemaker? It is the business and the trade of the lawyer to try causes of this kind, and to distinguish guilt and protect innocence. I hope, sir, that if I ever have any merit at all it may be that which I believe to be the highest merit, that I can look upon this thing as a lawyer.

But it has been said I am trammelled with technical difficulties. I have no technical difficulty about it, not a particle. There is not a technical difficulty about the case from one end of it to the other. A technical difficulty is where a man's belief is circumscribed by some proper rule of law. I think I can mention an instance. If we were sitting as a court, and a witness testified to a particular offense, although I might believe that witness, the arbitrary rule of law which required two witnesses would prevent me from finding upon it. We have had no technical trammels here. There have been no judicial obstructions in the way. We have been just as free as the air we breathe, or the sunlight we rejoice in. The rules

which have been adopted for our guidance are the rules which it would be well for every man, even in common life, before he entertains a charge against his neighbor of the most trivial kind, to adopt, and which it would be well to adopt in this nation to-day, when the very atmosphere is rife with slander, when it comes on every gale, and every breeze is laden with it. It would be well if we had more charity, and could better observe the rules of law before we believe those things of our neighbors.

I said the other day that those who make charges should prove them, and they should prove them so as to relieve them of all reasonable doubt. I do not mean technical, I do not mean mere captious doubt; but I mean that reasonable doubt which will make a resolute man hesitate when he is about to act. That is the doubt which I have here, and I give to Mr. BRIGHT the benefit of that doubt. I would give it to anybody.

It has been said that that was a false rule of construction, that it should be reversed, and instead of acquitting a man upon a doubt, we should convict him upon a doubt; or, in other words, if you are doubtful of a man's loyalty here you are to act as though he were a traitor, and expel him for that reason. Sir, I can never agree to it. If the whole world were to rise up and assert it, the thing is so abhorrent to my reason and to my sense of right that I never could agree to it. What do you mean when you are doubtful of a man's loyalty? You mean that you do not know whether he is loyal or disloyal. You mean that you have not been able to dive down into the inmost recesses of his heart and ascertain what is going on there; but until you can get down there, or until you have an overt act which proves his guilt clearly to you, what are you to do? It seems to me the law of nature alone, even if there never had been a Christian religion on earth, would have taught a man what to do in such a case. The rule of law is nothing more than the rule of religion when you come to examine it and to get down to the bottom of it, and that is, that you are to have charity for your fellow-man until the proof of his guilt is beyond all question; and then as a judge you may punish, and not otherwise.

I trust that with this explanation everybody will be satisfied. I hope they will, because any effort that is made here for the maintenance of these rules, for their certainty, and that they may be observed, is not only for the benefit of Mr. BRIGHT, but for the benefit of all mankind. I stand upon these rules, not because I regard his case. In the face of the importance they assume to me, I care nothing about him whatever; but I care for human liberty everywhere; I care for that fair play which distinguishes American law as derived from the English law; and I care for all those great principles which have come down to us for a thousand years, hallowed by the wisdom of our ancestors; and I never, anywhere or in any assembly, will abandon them. I have nothing more to say.

Mr. McDOUGALL. Mr. President, the Senator from Pennsylvania has closed his remarks with some very conservative talk; but his preceding remarks were very general. He has been undertaking to occupy a position in the maintenance of what I call his wrong upon purely technical grounds, and in his conclusion he throws himself out in the broad field of general opinion. I must object to the whole tenor of his observations, for he puts his argument upon technical and legal grounds. He says the Senator from Indiana is not a traitor, and therefore ought not to be ejected. That is the logical statement of his proposition. He has avoided the entire argument. If I were a prosecuting attorney, employed by the Government of the United States to maintain treason against the Senator from Indiana, I think I could do it by the exact rules of law. But I do not understand that, sitting here as a Senate, we have to work by the terms and rules that govern justices of the peace, county judges, judges of the circuit court, or judges of the Supreme Court, or judges anywhere. We stand here to determine what is right for the Republic. I believe, and I say it here in the Senate, that we have—I will not say lost—almost lost the dignity that belongs to the Senate of a republican Government. It would be well for all of us if we could think that the Senate of the Republic of the United States was a great

body where wise men undertook to sit in council. It is not appreciated or felt, but it would be a great thing for all of us if it were. I have thrown out here rather the expression of my heart than the exact measure of my opinions.

Sir, I am astonished that the Senator, an able lawyer, one of the ablest lawyers that sits in this Hall, could engage in this discussion, and put the question upon purely technical grounds. I rose merely to say to him that this is not a question of treason or no treason. It is no question of law. We have not to ask whether the Senator from Indiana is guilty or not guilty. We have to judge him in our best judgment, and by that we try him; and we say "yea" or "nay" as we think, whether he be a true man or not to sit in the Federal councils to conduct the affairs of the nation.

Mr. WILLEY. I do not rise for the purpose of making a speech again on this subject. This, sir, is the most solemn moment of my life. Whatever Senators may say or think about it—it may be an illusion on my part—I believe before God, to whom I must answer, that as I stand here I have resting upon me and my conscience all the solemn obligations of a judge; and that I am bound by every consideration of justice and expediency to decide the issue submitted to my arbitration according to the long established and long decided rules of evidence. Every principle of patriotism, every instinct of self-preservation, every suggestion of a wise expediency demands at my hands, as a Senator, that I should use all honorable efforts to keep this high department of the Federal Government entirely pure from every tincture and taint of disloyalty. God knows we have open enemies enough in the field demanding all our attention and all our resources, without cherishing in our own household a secret foe. I acknowledge this fact; I feel it; but at the same time I feel that I stand here between the country, on the one hand, and one of its citizens, over whom it throws the protecting shield of the Constitution and the laws, on the other; and I recognize as the great value of constitutional liberty the principle that the public liberty consists in private security and immunity from wrong. In that security is the true test of public liberty; and there can be no public liberty where the rights of individuals are not securely protected. Standing, then, between the country, on the one hand, and one of its citizens, high in office, on the other, I say I feel the greatest sense of responsibility that ever rested upon my conscience before.

It may be that I am a little unused to occasions like this. That is the fact; but I have a duty to perform, and I intend to perform it to the best of my ability; and I say here now, sir, that although I am not fully satisfied with the explanation of the Senator from Indiana on the one hand, yet as a judge, resting, as I believe, under the obligation of an oath—for when I took the oath to support the Constitution I believed it implied that every duty I performed as a Senator should be performed under the sanction and under the obligation of that oath—I cannot believe that the Senator from Indiana is worthy of expulsion. I may be wrong; but acting upon the great legal principle that where there is any doubt, the doubt should inure in favor of the party accused, I believe that, under all the circumstances, I shall best discharge my duty to the Senate, to the country, to the Constitution, to the obligation of the oath which I have taken, and to my own sense of what is right, by recording my vote against the passage of this resolution.

The question being taken by yeas and nays, resulted—yeas 32, nays 14; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Davis, Dixon, Doollittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Henderson, Howard, Howe, Johnson, King, Lane of Indiana, McDougall, Morrill, Pomerooy, Sherman, Simmons, Sumner, Trumbull, Wade, Wilkinson, Wilmot, Wilson of Massachusetts, and Wilson of Missouri—32.

NAYS—Messrs. Bayard, Canlie, Cowan, Harriis, Kennedy, Latham, Nesmith, Pearce, Powell, Rice, Salsbury, Ten Eyck, Thomson, and Willey—14.

The VICE PRESIDENT. Upon this question the yeas are 32, the nays are 14. More than two thirds having agreed to the resolution, it is passed. [Applause in the galleries.]

The VICE PRESIDENT. Order! order!

Mr. GRIMES. I ask leave to introduce a bill of which no previous notice has been given.

Mr. RICE. I object.

The VICE PRESIDENT. Objection being made, the bill cannot be received.

Mr. RICE. I move that the Senate adjourn. The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 5, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON. The Journal of yesterday was read and approved.

MISSOURI RAILROADS.

The SPEAKER stated that the first business in order was the engrossment and third reading of House joint resolution No. 37, in relation to certain railroads in the State of Missouri, the consideration of which had been postponed to this day.

Mr. HOLMAN. I see that several of the gentlemen interested in this resolution are not now present; and as the Committee of Ways and Means desire to go on with the legal tender bill to-day; I move that the resolution be postponed until to-morrow.

Mr. KELLOGG, of Illinois. I move to amend that motion by postponing the further consideration of the resolution until this day week.

Mr. HOLMAN. If it is not convenient to take it up to-morrow, I will make no objection to a longer postponement.

Mr. KELLOGG, of Illinois. I move that the further consideration of the resolution be postponed until Friday next.

Mr. HOLMAN. I accept that as a modification of my motion.

The question was taken; and the further consideration of the resolution was postponed until Friday next.

ARMORY, ETC., AT ROCK ISLAND, ILLINOIS.

Mr. WILSON, by unanimous consent, presented a joint resolution of the Legislature of Iowa directing the Senators and requesting the Representatives from that State to procure the establishment, at the earliest possible time, of a United States arsenal and armory upon the island of Rock Island, Illinois; which was laid upon the table and ordered to be printed.

PLEYLES'S LANCERS.

Mr. WILSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the propriety of authorizing the Secretary of War to settle and pay the claims for pay of the officers and men of Colonel Pleyles's regiment of lancers, disbanded by the order of the Government in November last, in Burlington, Iowa; and to report by bill or otherwise.

IOWA CONTESTED-ELECTION CASE.

Mr. COX. I rise to a question of privilege. I present additional papers in the Iowa contested-election case of Byington vs. Vandever, and move that they be referred to the Committee of Elections.

The motion was agreed to.

GEORGE W. SMALL.

Mr. COX, by unanimous consent, from the Committee on Foreign Affairs, reported back the memorial of George W. Small, and moved that it be referred to the Committee on Commerce, to which committee it belonged.

The motion was agreed to.

TREASURY NOTES, ETC.

Mr. SPAULDING. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union. The motion was agreed to.

Mr. WICKLIFFE. Before we go into committee I hope the House will limit the debate, so that we may have a vote to-day on the pending bill.

The SPEAKER. The House is now in committee.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. MALLORY in the chair.)

The CHAIRMAN. The question before the committee is the consideration of House bill No. 240, to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States; on