The fourth section authorizes, not the President, but any military commander in any of these districts, generals, colonels, majors, captains—indeed, one of them should be the commander of a military district in New York, in his discretion to suspend the writ of habeas corpus, if he will not obey, to any judge that may issue it.

Then, sir, if any person—not a camp follower, nor any one subject to the rules and articles of war—but any person—

"Shall be found in arms against the United States, or, in rebellion against the Constitution, or, in arms in opposition to any law of the United States, within any district of the United States, shall be considered as prisoners of war, or as rebels, or as enemies, and such persons shall be disarmed, captured and composed, to be held as enemies of the United States; or may, according to the circumstances of the case, be punished as such."—

This to be judged by this military commander.

"He at once places before a court-martial, to be dealt with according to the rules of war in respect to prisoners of war, without regular laws armed bands, not recognized by regular troops."

Or in his discretion may be discharged upon parole. The Constitution of the United States declares that the crime of treason and all other crimes shall be tried by a jury, and not by a military tribunal in the case of a civil officer, and the President, or any one else, it is proposed by this act to delegate to any subordinate military authority, a power which he does not himself possess.

The sixth section provides that—

"No sentence of death pronounced by a court-martial upon persons or persons taken as aforesaid, shall be executed before it has been submitted to the commanding officer of the Army to which the person committed to military department within which the conviction has taken place, or to the Commanding General of the Army of the United States."

Sentence of death may be passed upon any person committed to military department by the approval either of the General-in-Chief of the Army or of the subordinate military commander who was in the control of the district in which he is taken.

Sir, I do not at present comment upon the seventh section, in regard to persons put upon parole; nor the eighth section, which provides that any military commander may cause any person suspected of disloyalty to the United States to be detained in such manner and for such time, or cause to be administered, to such person an oath of allegiance,—a very peculiar oath,—an oath not allowed as constitutional by the Constitution of the United States, but to become an oath not allowed in any other things not provided for in the Constitution of the United States. There is no legislative oath which is not allowed to be put under the oath under the Government, and that oath is limited to a support of the Constitution of the United States. And I think the public liberties are at a low ebb when any military commander may seize throughout the length and breadth of the land, any citizen suspected merely, and compel him to take such an oath as is prescribed in this act.

Then, Mr. President, without discussing the other sections that present, how does it amuse you? Let me take the State of Kentucky, for example. The State is a military district. Suppose that, for any cause, the President may choose to say that State is in rebellion, and though she has suffered enough from violations of the Constitution committed by the Executive; although she has been attacked, and made to endure the characteristic fidelity to the Union of the State is to be the sole judge of the facts; he is to declare it insurrectionary, for example, is in a state of insurrection.

The military commander in charge of the United States forces in the district may then publish just such regulations as he may think proper, or in the Commonwealth as he may choose, making them conform as nearly as he may, in his discretion, to the laws and regulations of the State. And the civil and military authorities of that State are to be bound by the rules and regulations of this military commander, whether they do or not enforce them, it is then to see that they are executed by the military force under his command.

What is it, sir, but venting first in the discretion...
of the President, to be by him directed to a subordinate military commander, or the authority under the Commonwealth of Kentucky, to abolish the State, to abolish the Executive, the Legislature, and the judiciary; and to substitute in their stead such other laws and regulations as the Government of its people as that military commander may choose? Will the Senate of the United States consider, that this bill contains provisions conferring authority which never was exercised in the worst days of Rome, without the power of her dictators. I have wondered why the bill was introduced. I have sometimes thought that possibly it was introduced for the purpose of preventing the expression of that resentment that we all feel against the public mind against these procedures so fatal to constitutional liberty. The bill must be thus used to meet the provisions of the Federal government, for which preparation is now being made by Congress, of which in any part of Illinois, or Indiana, or New York, or any State, North or South, there shall be difficulty, or resistance, the President in his discretion may declare it to be in a state of insurrection, all the civil authorities may be overthrown, and his military commander may make rules and regulations, collect taxes, and execute the laws at his pleasure.

Mr. NICHOLSON, who has told us about the Union as it was at the end instead of means. They talk about it as if it was the Union of these States, which might also believe in the principles of public and of personal liberty. A bill has been introduced before, and they may survive. It takes in all the people, but it does not destroy not only the ideas of the country, but the spirit of all that remains of the Federal Union. These eternal and sacred principles of public and of personal liberty, which before the war will live forever and ever somewhere, must be respected; they cannot with impunity be overturned. If these things are done, it is between any form of government and these principle principles, that form of government will perish; they will tear it asunder as the irresistible force bore down the opposite sea.

Mr. President, I shall not long detain the Senate. I shall not enter now on an elaborate discussion of the subject involved in this bill, and all the consequences which, in my opinion, flow from it. A word in regard to what fell from the Senator from Vermont, the substance of which has been uttered by a great many Senators on this floor. What I tried to show some time ago has been substantially admitted. One Senator says that the Constitution is put aside or repealed like this. Another Senator says that the condition of affairs is altogether abnormal, and that you cannot now rely on constitutional principles. Any more than you can deal by any of the regular proceedings of the laws of nature with an executive authority, which have been enjoined by the Constitution. He says that all these proceedings are to be conducted according to the laws of war; and he adds that the laws of war have no application to those which are absolutely forbidden in the Constitution; which Congress is prohibited from doing, and all other departments of the Government are forbidden from doing by the Constitution; but that they are proper under the laws of war, which must alone be the measure of our action now. I desire the country to see what is the idea; that if this openly avowed upon this floor that constitutional limitation are no longer to be regarded, but that you are to follow the laws of two nations on this continent, one arrayed against the other; some eighteen or twenty million on one side, and some ten or twelve million on the other, as to whom the Constitution is a nullity, and the laws of war alone apply.

Sir, let the people, already beginning to pause and deep in their own foreign and national interests, and the probable consequences of this unhappy strife, get this idea fairly lodged in their minds—and it is a true one, I assure you that every word which we now hear day after day about crushing, subtending, treason, and traitors, will not be so uttered the next time the Representative of the people from the States assemble beneath the dome of this Capitol.

Mr. LANE, of Kansas. With the consent of the Senator from Kentucky, I should like to ask him a question.

Mr. BRECKINRIDGE. I prefer that the Senator from Kansas should not at present interrupt
and more gentlemanly,) to ask him if he will be kind enough to state what single particular provision there is in this bill which is in violation of the Constitution of the United States, which I have a right to exercise,—one distinct single proposition in the bill.

Mr. BREAUGRDNE. I will state, in general terms, that every one of them, in my opinion, is unconstitutional; it may be that the bill may, in the way of details, send the Senator the bill, and he may comment on the sections.

Mr. BAKER. Take out that one which is in your judgment most clearly so.

Mr. BREAUGRDNE. They are all, in my opinion, unconstitutional; I have not time for that section alone. I will send the Senator the bill, and I tell him that every section, except the last, in my opinion, violates the Constitution of the United States.违法 of that last section, I express no opinion.

Mr. BAKER. I had hoped that that respectfully requested of the Senator would enable him to point out to me one section, in his judgment, most clearly so, for they are not all alike—they are not all equally unconstitutional.

Mr. BREAUGRDNE. Very nearly. There are ten of them. The Senator can select which he pleases.

Mr. BAKER. Let me try then, if I must generalize as the Senator does, to see if I can get the scope and meaning of this bill. Is it a bill to provide for the maintenance of the United States, or the right of any State to maintain a State? Which proclamation shall be extensively published within the district to which it relates. That is the question. I ask you if this is an act unconstitutional in respect to the States?

Mr. BREAUGRDNE. Mr. President, the question which we must consider, I believe, is this, do you discover, of course, the great advantage it would have if we were to allow him, occupying the field of opinion, to introduce into the body of the Constitution that very section which is now in question? Am I not entitled to an answer to the question, have they have their own criticisms made on them. When he has closed his speech, if I deem it necessary, I may make some reply. At present, however, I will answer that question. The State of Illinois, I believe, is a military district; the State of Kentucky is a military district. In my judgment, the President, and, in my opinion, Congress has no right to confer upon the President authority, to declare a State in a condition of insurrection or rebellion. He will not dare to say it is.

Mr. BREAUGRDNE. The President, the Senate, or the House of Representatives, is the very authority which, I believe, have the power to introduce into the body of the Constitution that very section which is now in question. Am I not entitled to a full answer to the question, have they have their own criticisms made on them. He who has closed his speech, if I deem it necessary, I may make some reply. At present, however, I will answer that question. The State of Illinois, I believe, is a military district; the State of Kentucky is a military district. In my judgment, the President, and, in my opinion, Congress has no right to confer upon the President authority, to declare a State in a condition of insurrection or rebellion. Mr. BAKER. In the first place, the bill does not say a word about States. That is the first answer.

Mr. BREAUGRDNE. Does not the Senator know, in fact, that those States compose military districts? It might as well have said "States" as to describe what is a State.

Mr. BAKER. I do; and that is the reason why I suggest to the honorable Senator that this criticism about States does not mean anything at all. That is the very point. The objection certainly ought not to be that he can declare a part of a State in insurrection and not the whole of it. In point of fact, the Constitution of the United States, and the Congress of the United States acting upon it, are not treating of States, but of the territory of the United States; and the President can assign each section to a better judgment that it cannot be unconstitutional to allow the President to declare a county a part of a State, or a part of a town, or a part of a State, or two States, or five States, in a condition of insurrection or rebellion; is that the judgment that is the fact. That is not wrong.

In the next place, it provides that that being so, the military commander in that district may make and execute such regulations and rules as he may deem necessary to suppress the rebellion and restore order and preserve the lives and properties of the citizens of the district. But, sir, it is part of the law of war; you cannot carry in the rear of your army your courts; you cannot have a jury to try those cases according to the forms and ceremonials of the common law amid the clangor of arms, and somebody must enforce police regulations, a conquered or occupied district. I ask the Senator from Kentucky again respectfully, is that unconstitutional; or if in the nature of war it must exist, if there be law passed, can we allow it, is it unconstitutional to regulate it? Then the question, to which I do not think he will make a clear and distinct reply.

I have shown him two sections of the bill, which I do not think he will repeat earnestly are unconstitutional. I do not think that he will say they are unconstitutional in the face of the evidence which I have given. I do not think he can limit, to regulate, to control, at the same time to confer and restrain authority in the hands of military commanders, and justify and authorize them by virtue of power to be placed in the hands of the President by law.

Now, a few words, and a few only, as to the prediction which the Senator from Kentucky stands here in a manly way in opposition to what he sees is the overwhelming sentiment of the Senate, and utter reproach, ind elbows, and prediction combined. Well, sir, it is not every prediction that is prophecy. It is the world where there is nothing easier, except to be mistaken when we have predicted. I confess, Mr. President, that I would not have predicted three weeks ago the disasters and troubles that were overtaken, and when I do not think (if I were to predict now) that six months hence the Senator will indulge in the same tone of enthusiasm which is his, I would ask him what would have to do now—a confederate army within twenty miles of us, advancing, with his Government, to subdue our people. To the Presidencies of the State Governments to shackle the pillars of the Union; to bring it around your head, if you stay here, in ruins? Are we to stop and talk about an up and down movement in the Senate? Are we to predict, and arise from what we predict? Is it not the very thing we have to do? Are we to form them, to organize them, to prepare to advance; when we advance, to regulate that advance by all the laws and regulations of our Government? I do not think the President will say the Secretary of War will have in time of battle? Can we do anything more? To talk to us about stopping, is silly; we will not stop. Will the Senator yield to rebellion? The President will not yield to rebellion. Will his State justify it? Will its better public opinion allow it? Shall we send a flag of truce? What would he have? Or would he conduct this war so foolishly, that the whole world would smile us at in derision? What would he have? These speeches of his, sworn broadcast over the land, what clear distinct meaning have they? Are they not intended for disorganisation in our very midst? Are they not intended for weakening our forces, not intended to destroy our soul? Are they not intended to animate our enemies? Sir, are they not words of brilliant, polished treachery? Are they not very false colors? [Manifestations of applause in the galleries.]

The PRESIDING OFFICER, (Mr. Anthony in the Chair.) Order!

Mr. BAKER. What would have been thought if, in another Capitol, in another Republic, in a yet more martial age, a senator of age, more dignified than the Senator from Kentucky, yet with the Roman purple flowing over his shoulders, had risen in his place, surrounded by the illustrious names of Roman glory; who declared that advancing Hannibal was just, and that Carthage ought to be dealt with in terms of peace? We have not yet won, but we shall, and the battle of Cannae, a senator there had risen in his place and denounced every ivos of the Roman people, everybody expectation of the victory is not a piece of old recollections and the old glories? Sir, a senate, himself learned far more than myself in such lore, (Mr. Fessenden), tells me, in a voice that I am glad is 101 years, that we would have been hounded from the Tarpeian rock. It is a grand commentary upon the American Constitution that the Senate from Kentucky, ‘tis like a man who asks the Senator to recollect, too, what, save to send aid, and comfort the enemy, do these predictions of destruction? They fall as a note of inspiration upon every confederate ear. Every sound and every word (and falling from his lips, a mighty word) of kindness and triumph to which I have no such word as a Senator to utter. For me, amid temporary defeat, disaster, disgrace, I seem that my duty calls me to utter another word, and that
word in, bold, sudden, forward, determined war, according to the laws of war, by armies, by military commanders clothed with full power, advantage the past glories of the Republic urging them on to conquest. I do not stop to consider whether it is subjugation. I see it is compulsory obedience, not to my will, not to your will, not to the will of one man; not to the will of any one State; but compulsory obedience to the Constitution of the whole United States. I see that the people of the rebellious States would not govern themselves as States, they ought to be governed as States. I see that the Senators, the men I have just mentioned, have been willing to come thousands of miles with their arms on their shoulders, at their own expense, to share with the blood of their heart's blood in the great struggle of constitutional liberty. I tell the Senate that his predictions, sometimes for the North, sometimes for the Southern States, sometimes for the Northeast, and then wandering away in any visions out to the far Pacific, about, as for loss of blood and treasure, provoking them to dissension, are false in sentiment, false in fact, and false in loyalty. The Senate from Kentucky is mistaken in them all. Five hundred thousand men from the Great Britain gave more than two thousand million in the great battle for constitutional liberty which she has been fighting against the world. Five hundred thousand men! What then? We have them; they are ours; they are the chosen instruments of the whole country; they are our sons; our kin; and there are many of us who will give them all up without a struggle, will write one word of our last demand, or will take our place from the line which divides right from wrong.

Sir, it is not a question of men or money in that sense at all. It is not, in our judgment, well bestowed in such a cause. When we give them, we know their value. Knowing their value, we know what can be done with them for the purpose of pride and the more joy. Sir, how can we retreat? Sir, how can we partake? Who shall trust? What can we do? Shall we go on? Upon what terms? Where is to be your boundary line? Where the end of the principles we shall have to give up? What will become of constitutional gov- ernment? What will become of public liberty? What of past glories? What of future hopes? Shall we sink into the insignificance of the grave—degraded, defamed, massacred people, fright- ened by the results of one battle, and scared at the visions raised by the imagination of the Sen- ator from Kentucky? Shall we from a thousand times, no, Sir! We will rally—indeed, our words are necessary—we will rally the people, the loyal people, of the whole country. Their will be preserved through the money, their men, without stint, without measure. The most peaceable man in this body may stamp his foot; the most violent man of all a warrior and a senator did, and from that single front there will spring forth armed legions. Shall one battle determine the fate of empire, or a dozen? the loss of one thousand men or twenty thousand, or $10,000,000 or $50,000,000,000? In a year's peace, in ten years, at most, of peaceful progress, they can do no more. Some one will rise, and if they rise, we will make common cause with the Senate from Kentucky, the Constitution, the free government—with these there will return all the blessings of well- ordered civilization, the path of the country will be a career of great and glorious action. Such was in the olden time, our fathers saw in the dim visions of years yet to come, and such as would have been in the great mind, and seem to be the principle for which the Senate too often seeks to apologize.

Mr. BRECKINRIDGE. I shall detain the Senate, sir, but a few moments in answer to one or two of the observations that fell from the Senator from Oregon.

Mr. EAKER. Oregon.

Mr. BRECKINRIDGE. The Senator seems to charge of the whole Pacific coast, though I do not mean to intimate that the Senators from Oregon are not entirely able and willing to take the same view as the Senator from Oregon, than.

Mr. President, I have tried on, more than one occasion, to make some remarks regard to the character of our Federal system, the Constitution, the Senate, to the Federal Government, to the Constitution, the Senate of the Federal j udicial system. They differ utterly from those entertained by the Senator from Oregon. Even when we have the same ideas, as in the Constitution, as an original, not a delegated Government, and he regards it as clothed with all those powers which are delegated by the different political communities that compose it, and limited and confined in the formation that forms the bond of Union. I have tried to make the Senator from Oregon, view it as, what must we do? As we progress southward and invade the country, must we not, said he, carry with us all the laws of war? I would not progress southward and invade the country.

The President of the United States, as I again repeat, do not wish to see the Senate establish out the military to assist the civil authority in exe- cuting the laws; and when the question assumes a military point, and takes the form of a pol- itical revolution, and a matter of the Confederacy withdrew themselves from it, what then? I have never held that one State or more than one State has a right to break the compact of the Constitution. But what I mean to say is that you cannot then undertake to invade the nation in the manner you propose. In my opinion they are out. You may conquer them; but do not attempt to do it under what I consider false political pretenses. Sir, I will not enlarge upon that. I have developed these ideas again and again, and I do not care to retrace them. I have known the Senate and I start from entirely different standpoint, and his pretended replies are no replies at all.

The Senator asks me, ‘what would you have us do? What would you have us do? I would have us stop the war. We can do it. I have tried to show that there is none of that inexorable necessity to continue this war which the Senate seems to suppose. I do not hold that constitutional liberty on this continent is bound up in this fratricidal, devastating, horrid contest. Upon the contrary, I say it will find its grave in it. The Senator is mistaken in supposing that we can reunite these States by war. It is maintained that two million or twenty million upon the one side can subjugate ten or twelve million upon the other; or, if they cannot, that those who attempt it will subvert the constitutional government as our fathers made it.

You will have to govern them as Territories, as governments by the Constitution the Constitution of all the States, to the Dominion of the United States, or, as the Senator from Vermont called them, ‘those rebellious portions of this Union,’ in this learned speech today. Sir, I would prefer to see those States all reunited upon true constitutional principles to any other object that could be offered me in life; not one of the principles of our fathers, the Union of these States, to me the sacrifice of one unimportant life would be nothing; nothing, sir, to compare with a peace that will give up the right of these States, than to see endless, aimless, de- vasting war, at the end of which I see the grave of my country and personal freedom.

The Senator asked if a man in the Senate of the United States had uttered these things in the war between Carthage and that Power, how would he have been treated? I would answer that the Senator from Oregon, I believe, since the time he speaks of the Pacific, I see another distinguished friend from Illinois, now worthy by representing one of the most populous States, and the Senator who will bear me witness that I know that State too, well. I take the liberty—I know but I have never heard his friends in the Senate say that State, quoting from the passage the gentleman himself has quoted, will be true to the Union to the last of her blood and her treasure. There may be there some disaffected, there may be some men there who would rather rule in hell than serve in heaven. There are a few men there who are left the South for the good of the South; there are a few men who are revolutionists, there are a few, indeed, endeavor to create and maintain mischief, but the great portion of our population are loyal to those States that bear the name of the United States.
THE CONGRESSIONAL GLOBE. August 1,