EDITED BY
THOMAS RITCHIE.

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# The Daily Union.

VOLUME VI. "LIBERTY, THE UNION, AND THE CONSTITUTION." NUMBER 82.

CITY OF WASHINGTON, TUESDAY MORNING, AUGUST 6, 1850.

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## IN CONGRESS OF THE U. STATES.

Thirty-First Congress—First Session.

FRIDAY, AUGUST 2, 1850.

SENATE.

CORRECTION.

Mr. GREENE. I find, Mr. President, on reading the journal, that on the motion of the senator from Missouri, [Mr. ATCHISON,] yesterday, to substitute "Monday" for "this day" for taking up the California bill, my name is recorded in the affirmative. My intention was to vote in the negative. I have no doubt I did so vote, and I am informed by one of the reporters that my vote was so recorded by him.

The PRESIDENT. If there is no objection, the journal will be so corrected.

A message was received from the President of the United States, in compliance with a resolution of the Senate of the 5th of July, requesting him to communicate any information, if any had been received by the government, showing that any American vessel had been recently stopped on the high seas, and searched by a British ship of war. The message says the government has no knowledge of any alleged stopping or searching on the high seas of American vessels, except in certain cases mentioned, which would be explained by the correspondence sent with the message, taken from the files of the Navy Department.

On motion by Mr. CASS, it was ordered that the message and accompanying papers be referred to the Committee on Foreign Relations, and be printed.

MODIFICATION OF THE TARIFF.

Mr. CLARKE presented the petition of one hundred and twenty-nine citizens of the town of Coventry, Rhode Island, residing in Washington and Anthony villages, for a modification of the present tariff. This petition is signed by the present lieutenant governor of the State, and other gentlemen of distinction—and a large portion of them are mechanics and laborers, who immediately feel the present deep depression of their business. They ascribe this depression to the present revenue laws of the country allowing the value of the dutiable article imported to be fixed by the importer, and thus reducing them, the free laborers of the country, to a ruinous competition with the cheaper and ill-fed operatives of Europe.

Also, the petition of Charles H. Franklin and eighty-eight other citizens of Olneyville, setting forth that the present revenue laws place them at the mercy of foreign labor and foreign capital, and asking for the fixing of a specific duty equal to an ad valorem upon the prices which existed at the passage of the tariff of 1846.

Also, a petition signed by more than two hundred and fifty inhabitants of the town of East Greenwich and the vicinity, setting forth the embarrassments under which they are laboring in their industrial pursuits, and urging upon the attention of Congress such amendment of the present revenue system as will afford protection and a just reward to their labor. I know most of these individuals whose names are affixed to this petition, for they are my neighbors and friends, and I know the depression under which they are now laboring. The insufficiency of the tariff of 1846, and the delusions which follow an ad valorem duty, are fully and forcibly set forth by the petitioners, and they pray for such duties in a specific form as will restore them, their laborers, artificers, and mechanics, to their accustomed prosperity. Their labor is their only capital—and that is the capital which they seek to protect.

Also, a petition of ninety-seven citizens of Cranston, mechanics, artisans, and calico printers, who all feel severely the present depression in the manufacturing and printing business. The materials used in dyeing and printing are for the most part imported from England, and the duties upon those articles, with the freight and charges, are nearly equal to the duties upon prints under the present revenue laws; and in the manner in which they are levied, this branch of business for the past year has been ruinous, and, unless soon relieved from its depression, must cease. The gray cottons are the raw material of the printer; and when that article is no longer required for that purpose, the whole field is given up to the foreign manufacturer and printer, and the machinery thus employed is useless, or falls back upon other fabrics, which are already below the cost of labor and material. The quantity of prints imported is immense, having nearly doubled in the past year. Many details are furnished by the petitioners, which conclusively show the utter prostration of their business.

Also, a petition of Simon H. Green and one hundred and twenty-eight others, laborers and artisans in the villages of Phœnix, Lippitt, and the Clyde Work, in Warwick, in the State of Rhode Island, setting forth in strong terms the depression in their business, which is the manufacture of cottons and the printing of cotton. One of these establishments has suspended work, and the laborers are seeking for some employment elsewhere.

Also, a petition of A. A. Tillinghast and 338 others, citizens of North Providence, in the State of Rhode Island, and Pawtucket, Massachusetts, asking for such change in the revenue laws as will enable them to withstand the ruinous competition of foreign fabrics, with which the country is inundated at this time. They complain that the present system of assessing duties is unwise, and induces to frauds upon the revenue, and deprives the American laborer of a just reward for his labor. A specific duty, equal to twenty-five per cent. upon the value of cottons, as they were at the time of the passage of the present law in 1846, would enable them to pursue their business, reward their labor, and check excessive importations, which at no distant day will exhaust the resources of the country.

Also, a petition signed by Owry Taft and 180 other individuals and commercial firms of the city of Providence, in the State of Rhode Island, representing that the present depression in all manufacturing and mechanical pursuits loudly calls for the best consideration of Congress; that large amounts of capital have been invested in the various branches of industrial and mechanical pursuits, and that at the present time it is wholly unproductive; and that the fabrics of their manufacture, of which labor constitutes their principal value, are now much below the actual cost of production. They believe that this depression is not caused by any want of ability to consume by the great population of the country, but rather by the present unexampled influx of foreign fabrics, imported by foreigners under the unjust and delusive system of duties now imposed by law. The petitioners believe "that many establishments of business, which have heretofore given employment to large numbers of industrious people, must be abandoned," unless a revision of the revenue laws is made; that the existing laws, as experience shows, operate most unfavorably upon the industry of the country, exposing it to all the fluctuations of the European markets, and placing it at the mercy of capital; and, further, "that a system of ad valorem duties presents such temptations and facilities to fraud, that the duties cannot be fairly and honestly collected, according to the true intent of the present laws. And they ask that the duties may be made specific, taking as the valuation of the dutiable articles the average price at the time of the passage of the tariff of 1846."

Also, a petition of Byron Diman, and 280 citizens of the town of Bristol, Rhode Island, representing that the manufacturing business in that town, in which the petitioners are personally engaged, is now unproductive and their labor is without reward. They attribute this depression to the present revenue laws and the system of ad valorem duties, and to the excessive import of foreign fabrics induced by that system and the fraudulent invoices which it invites. They ask that the duties may be made specific.

Also, a petition of William S. Slater, and 40 other citizens of Slatersville, in the State of Rhode Island, setting forth in strong terms the present ruinous condition of their business in the manufacture of cottons, and asking for such revision of the tariff as will insure a fair collection of the duties now imposed, and a change to specific duties in lieu of the present fraudulent ad valorem system. A specific duty upon a fair valuation of goods, as that value was when the act of 1846 was passed, would enable these petitioners to share in the great markets of their own country.

Also, a petition of William Sprague, and 170 other citizens of Warwick, Rhode Island, asking for a revision of the tariff and a substitution of specific for ad valorem duties, and a valuation of fabrics equal to their value at the passage of the present law in 1846. These petitioners are principally mechanics, farmers, and laborers, and they feel sensibly a depression which paralyzes all their industry. Their only capital is their labor, and this they ask to have protected against the cheaper labor and fraudulent importations from other countries.

Also, a petition from John McIlvaine and many others, farmers, mechanics, manufacturers, and laborers, of the county of Carbon, in the State of Pennsylvania, representing that the markets of their own country are wrested from them by the unprecedented influx of cheaper fabrics from abroad, and proposing a remedy in the substitution of specific for ad valorem duties.

In presenting these petitions, Mr. C. said: These petitions are signed by 1,726 individuals, embracing every class of citizens in the various communities from which they come—the merchant, the farmer, the manufacturer, the mechanic, the artisan, the laborer. These distinct interests all unite in deprecating the effects of the tariff of 1846 upon the industrial pursuits of the country, and particularly desire that it should be so amended as to substitute specific for ad valorem duties. They believe that the present system encourages gross frauds upon the revenue, and invites excessive importations of foreign fabrics produced by cheap labor, and resulting from superabundant capital. The present duty, though nominally twenty-five per cent., is really a duty not exceeding fifteen per cent., and the immense imports of the last and the present year have glutted our own markets, and reduced the prices of our manufactures of cotton and woollen below the actual cost of production. These petitioners disclaim all ideas of exciting a panic or creating false impressions. Their personal interests are connected with the leading interests of the country, and they claim only to share in a prosperity due to all. Their labor cannot be profitably employed, and a continued competition with the cheaper labor of Europe must result either in reducing wages below the means of a comfortable subsistence, or in the suspension of numerous large manufacturing establishments, and their labor consequently be forced into other and new employments.

When the law of 1846 was passed, we were told that twenty-five per cent. upon prices as they then existed insured a sufficient protection to our own industry. Had that duty been fixed and specific, this might have proved true; but the sliding scale of duties, lowering as the price of the article became reduced abroad, coupled with undervaluations and frauds, has utterly defeated the expectations even of the friends of the bill of 1846. A specific duty based upon the prices of 1846 would answer the purposes of the framers of the present law, and give moderate relief to the depressed manufacturers of the country. The iron interest may be said to suffer as deeply as any other. I know the business is discouraging in all sections of the country. My friend from Massachusetts, [Mr. DAVIS,] a short time since, happily and ably illustrated the present condition of the iron business, and showed the twofold effect of it—one upon the labor directly employed, and the other upon the agricultural labor which would be employed to feed and sustain that other labor which produces only iron, and not bread. I can add nothing to his excellent remarks.

I find on looking at the report of the Treasury Department of the commerce and navigation of the country for the year ending June 30, 1849, that there were imported of

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| Woollens | $14,539,863 |
| Cottons | 16,418,332 |
| Iron and steel | 14,988,961 |
| Silks | 16,627,356 |
| Linens | 5,912,542 |
| Total | $68,487,554 |

Of the cottons, there were prints $10,286,291. The whole imports of the country, after deducting the exports of foreign goods, were $134,768,574—showing that the imports of woollens, cottons, iron and steel, silks and linens, constituted more than one half of the whole amount of the imports of the country. I intended to have presented other statistics; but as I design to have these petitions referred to the Committee on Manufactures, it will be unnecessary, as that committee will examine the subject and report upon it.

The petitions were then referred to the Committee on Commerce.

PETITIONS AND MEMORIALS.

Mr. SHIELDS presented a petition of citizens of Illinois, praying the establishment of a mail-route from Newton to Martinsville, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. WALKER presented the memorial of citizens of New York, praying that the public domain may be granted in limited quantities to actual settlers not possessed of other lands; laid on the table.

REPORTS FROM COMMITTEES.

Mr. HALE, from the Committee on Pensions, to whom was referred the petition of William Ferguson, asking arrears of pension, submitted a report in writing, adverse to the prayer of the petitioner; which was ordered to be printed.

Mr. H. also, from the same committee, to whom was referred the petition of Isaac F. Miller for an increase of pension, made an adverse report thereon; which was concurred in.

Mr. H. also, from the same committee, to whom was referred the petition of John B. Brooks, asking compensation for the services of his father during the revolutionary war, made an adverse report thereon; which was concurred in.

Mr. H. also, from the same committee, to whom was referred House bill No. 178, being for the relief of Benjamin P. Smith, reported the same without amendment, and recommended its passage.

On motion, the Senate proceeded to the consideration of said bill as in committee of the whole, and, no amendment being offered, it was reported to the Senate, ordered to a third reading, and was read a third time and passed.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the memorial of J. K. Rodgers, submitted a report, accompanied by a joint resolution for the relief of the heirs of David Cordory; which was read, and passed to a second reading.

WM. MAXWELL.

Mr. BERRIEN, from the Committee on the Judiciary, to whom was referred the bill for the relief of William Maxwell, late marshal for the district of Georgia, reported it without amendment, and recommended its passage.

Mr. B. said: This bill relates to a case in which a judgment was obtained by the United States against Colonel Maxwell as marshal of the district of Georgia; and upon the evidence submitted to the House of Representatives, and which accompanies the bill, it is clearly shown that the United States are not entitled to receive the amount of that judgment. The statement of the accounting officer also confirms this. I hope the bill will be considered now.

The Senate as in committee of the whole proceeded to the consideration of the bill.

Mr. SEWARD asked for an explanation of the facts in the case.

Mr. BERRIEN said that William Maxwell was a marshal of the district of Georgia, and had a deputy residing at a distance from him, in the interior of the State. An execution was placed in his hands at the suit of the United States, and that deputy returned the execution as having been paid. Some years afterwards, an action was brought against Mr. Maxwell, after he was out of office, upon that return of the deputy. The deputy had removed to a distance; and the marshal, having no knowledge of the execution or return, had no means of explaining it, and a judgment was made out against him. Subsequently he ascertained from his deputy that that execution was so returned in consequence of the money having been paid to the deputy of Col. Maxwell's predecessor. Upon making this explanation to the proper accounting officer, proceedings on the execution were suspended. Subsequently judgment was obtained by the United States against the administrator of Col. Maxwell's predecessor, from whom the government can realize the amount. Still the execution was pressed against Col. Maxwell, and is only now suspended to await the action of Congress. The object of this bill is to release the judgment against Col. Maxwell, which amounts to some one hundred and fifty or sixty dollars, exclusive of interest.

The bill was then reported to the Senate, and read a third time and passed.

Mr. HALE. I would ask if it is in order, when reports from committees are called for in the morning hour, to call up a resolution and a report made by a committee, and which was laid upon the table at the request of a member of this body?

The PRESIDENT. It will not be in order, but it can come up in the ordinary business.

ISAAC SEYMOUR.

Mr. DAVIS, of Mississippi. I would be glad if the Senate would take up an act reported from the House this morning for the relief of Isaac Seymour. I will state the reasons why I ask to have it taken up now. He was a soldier who was wounded in the Florida war, and, on account of some failure of the report, he has failed to get his certificate, which would give him a pension. Having lost a limb, being really in extreme poverty, without being able to obtain a livelihood for himself, the House has taken the case into consideration, and passed an act for his relief. Under these circumstances, I ask the Senate to take up that act now.

No objection being made, the bill was taken up, and read a first and second time.

Mr. D. I hope it will not be referred to a committee. It is merely an act to give a pension to a man who failed to get a correct certificate.

The bill was then considered as in committee of the whole; and, no amendment having been offered, it was reported to the Senate, ordered to a third reading, and was read a third time and passed.

BILL FROM THE HOUSE OF REPRESENTATIVES.

The bill from the House of Representatives for the relief John P. Montgomery was read a first and second time, and referred to the Committee on Military Affairs.

BILLS PASSED.

The engrossed bill for the relief of John Mitchell was read a third time and passed.

The engrossed bill in relation to donations of lands to certain persons in Arkansas was read a third time and passed.

REVOLUTIONARY PENSIONS.

Mr. HALE. I now move that the Senate resume the consideration of a report from the Committee on Pensions, which was laid on the table a few days since at the instance of the senator from Georgia, now in his seat.

The motion being agreed to, the Senate proceeded to consider the joint resolution of the House of Representatives, explaining the acts of the 17th July, 1838, and March 3, 1843, and June 17, 1844.

Mr. BERRIEN. In looking into the report of the Committee on Pensions which extends the provisions of the act of the 7th June, 1832, I found that it was extended to all persons who had served during the revolutionary war for a period of two years, and therefore that the resolution might probably embrace a greater number of persons than the senator would be willing to include in such a provision. I have therefore drawn up an amendment, and submitted it to the Committee on Pensions, by which the benefits of that resolution are confined to the widows of those persons who had served in the revolutionary from beginning to the end. It will necessarily embrace a small number of persons, and whose claims, in my judgment, rest upon solid foundation. The Congress of 1778 passed a resolution by which they declared that all persons who served to the end of the war should be entitled to seven years' full pay. In 1780 they passed a further resolution, by which they declared that persons who should serve during the whole of the war would be entitled to half pay for life. In 1783 they exercised the power of commuting the rights of these officers under preceding resolutions, by substituting five years' full pay, instead of half pay for life. In 1828 they became sensible of their injustice to these officers, and made provision for those who then survived, by which they allowed them what they considered an equivalent for the loss they sustained under the resolution of 1783. The representatives of these officers who were not alive in 1828 applied for the benefit of that act, as their ancestors had served during the war of the revolution. The object of this amendment is to extend that benefit to them. I will state that I have submitted it to the Committee on Pensions, and have received their approbation of it as a substitute for their own. I will send it to the Chair, and ask that it may be read.

Mr. HALE. The amendment of the senator from Georgia proposes to strike out the amendment of the Senate committee from line one to the word "passage," in the 14th line, and substitute his amendment for that. The amendment was read as follows:

That the widow of any person who served in the army of the United States during the war of the revolution, from the beginning to the end thereof, whose marriage with such person took place prior to the first day of January, 1794, and who was in life on the 7th day of June, 1832, shall be entitled to receive during her life such annuity or pension as might have been allowed to her husband in virtue of the act of the 7th June, 1832, entitled "An act supplementary to the act for the relief of certain survivors officers and soldiers of the revolution," if he had been in life at the date of the passage of the said act.

Mr. BRADBURY. It is impossible to understand the exact effect of this amendment without an opportunity to examine it, and I therefore hope it will be laid upon the table and be printed.

Mr. HALE. I would suggest to the honorable senator from Maine that the joint resolution of the House was printed some months ago, and the amendment proposed by the committee of the Senate has also been printed. This amendment of the senator from Georgia simply restricts the amendment of the committee of the Senate, and makes it apply to those widows whose husbands served through the whole war, from the beginning to the close, and gives to the widows who were alive at the passage of the act of 1832 the pensions their husbands would have received had they been alive. This is the whole effect of it. It is not necessary to lay it on the table, to have it printed.

Mr. EWING. I do not know but the amendment of the senator from Georgia may be well enough; but it does not conform with the provisions of the amendments of the act of 1832. The act of 1838 provides that if any person shall have served during the revolutionary war in the manner specified by the act of the 7th June, 1832, and have died, leaving a widow, that widow shall be entitled to a pension. Now, the difficulty that is attempted to be removed here is this: that in case the husband was living in 1838, at the time of the passage of this act, though he died immediately after, the widow should yet receive a pension, the same as though he had died before. That, I conceive, is the object of the committee. It was suggested that the administrative offices had given a wrong construction to the act. It is thought that it should be so construed as giving pensions to those whose husbands died immediately after.

Mr. HALE. If the senator from Ohio will allow me, he is laboring under a mistake. The committee of the Senate, in their verbal explanation that was made, said that the resolution as it came from the House was intended to meet the difficulty that the senator from Ohio suggests. But the amendment of the Senate's committee was to obviate another difficulty, and not the one to which he refers.

Mr. EWING. I then did not have a correct understanding of the explanation of the senator. But that was the reason why the pensions could not be allowed to those widows whose husbands died after the passage of the act. This act was in the perfect tense—"when the husband shall have died." The joint resolution of August 16, 1842, was passed—I know not why—perhaps it was intended at the time it was passed to remedy that particular difficulty. It provides that the benefit of the act approved July 7, 1838, shall not be withheld from any widow whose husband died after the passage of the act of the 7th June, 1832, and before the act of the 7th July, 1838, confining the construction strictly to what it would have been in 1838. These two acts thus render it impossible to give a pension to any widow whose husband died after the passage of the act of 1838. I had supposed that the object of this bill was to remedy that, and to allow the widow whose husband died three days after the passage of the bill the same as she would have had, if he had died three days before the passage.

Mr. HALE. The difficulty that is described by the senator from Ohio did exist; but the resolution that was sent to us from the House of Representatives was intended to remedy that difficulty. The amendment proposed by the senator was this: There was a class of widows whose husbands died prior to the act of 1832, who (widows) were living at the time of the passage of the act of 1832. In 1838, the Congress of the United States extended the provision of the act of 1832 to the widows of the persons therein named, and applied it solely to those widows who were alive at the time of the passage of the first act of 1832. The Senate's committee thought that that was an unjust discrimination, and that widows that were alive at the time of the passage of the first act of 1832 should be embraced for the time they lived, as well as those who were alive in 1838.

Now, take a case of an officer who had served during the whole of the war of the revolution. He dies prior to the act of 1832. His widow is alive, dependent upon the charity of her children at the time of this act of 1832. She lives upon the charity and the benevolence of friends up to the time of the passage of the act of 1838, and then dies a few weeks before the passage of that act. Is there any justice or equality in withholding from that widow or the children of that widow the gratuity that would have been extended to her had she survived the passage of the act of 1838? Had she lived till the passage of that act, she would have been entitled to a full pension under the act of 1832. The Senate's committee propose to give to those widows who were alive after 1832, restricted as it is to those who served through the whole war, the benefits of the act they would have had in 1838. Now, I ask the Senate if this is not a case which appeals, not to the magnanimity and generosity, but to the justice of Congress. If there is any single thing that these soldiers could have asked, who fought the battles that won our liberties, and died in maintaining them—if there could have been one wish of their heart, would it not have been that, after the country had become able to appreciate their services, after they had gone down to the grave in penury, leaving nothing but an honorable name to their children, that some portion of the bounty which the country would then enjoy might be extended to their widows, who also bore with them the poverty they endured? It is not an appeal to the generosity or the magnanimity of Congress, but an appeal to the strictest justice, and an appeal to which I trust this Senate will respond.

Mr. EWING. I think the bill ought to pass. My only difficulty is that it does not extend to all the classes that it should be extended to.

Mr. CLAY. After what I have heard with regard to this resolution, I shall vote for it with all my heart. It is so restricted as to include only those officers who were in the whole of the revolutionary war, and through all the trials and difficulties of that memorable contest, and then only to those widows who were alive in 1832. I venture to say that there are not three cases in the United States. It is perhaps not sufficently extended, but it is good as far as it goes.

Mr. BRADBURY. I was unable to hear the explanation of the senator from Georgia of his amendment, and therefore suggested the propriety of having it printed. The explanation given by the senator from New Hampshire has removed that difficulty, and I have now no wish to make that motion.

The question being then taken upon the amendment to the amendment, it was adopted, and the amendment as amended was agreed to.

Mr. SEBASTIAN moved to amend the bill by an additional section extending the provisions of the act to such widows of revolutionary soldiers as were married prior to 1820.

Mr. S. said: I merely state in explanation that the benefits of the bill now before us extend only to the widows of those married in or prior to 1794. By extending this act to those who were married prior to 1820, a small class of persons is included who would not otherwise have the benefit of the act. There will be but few of them, and those who were necessarily needy—aged and infirm at this time. A similar bill to this, which embraces the views I have presented, is in the House of Representatives, and my object is to get this amendment adopted here, and then send the bill to the House of Representatives, and thus the whole matter of pensions will be disposed of.

Mr. SHIELDS. I suggest to the senator from Arkansas that, instead of offering a new section, his object will be equally well effected by moving to strike out "1794," and inserting "1820."

Mr. SEBASTIAN. I did not hear the bill read very distinctly. I was not aware that the year "1794" was mentioned in the connexion that the senator from Illinois says it is. If so, I will move to strike out 1794 and insert 1820.

The question being taken upon the amendment as modified, it was rejected.

Mr. FELCH. Mr. President, I ask that this bill may lie upon the table. If I understand the matter correctly, (and I am not quite certain that I do,) the effect of the provision reported by the Committee on Pensions will be not merely to give pensions to soldiers and their widows, but also to the heirs of soldiers in certain contingencies. I ask of the senator who reported this bill if I am correct in supposing this to be the effect of the bill; for if it is, I desire to have it laid over, in order that I may have opportunity to reflect upon the subject. If I understand properly what has been the course of all our former legislation upon the subject, it has been to provide for the soldiers of the revolutionary war, and some others, together with their widows; but I believe we have never gone to the extent of including their heirs. If this bill involves that principle, as I believe it does, I desire that it be postponed until to-morrow.

The question being taken upon the motion to postpone, it was agreed to.

ADMISSION OF CALIFORNIA.

The Senate resumed the consideration of the bill for the admission of California.

Mr. DOUGLAS yesterday moved to amend the bill by adding the following section:

SEC. 3. *And be it further enacted*, That the said State of California is admitted into the Union upon the express condition that the people of said State, through their legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of the same shall be impaired or questioned; and that they shall never lay any tax or assessment of any description whatsoever upon the public domain of the United States; and in no case shall non-resident proprietors, who are citizens of the United States, be taxed higher than residents; and that all the navigable waters within the said State shall be common highways, and forever free, as well to the inhabitants of said State as to the citizens of the United States, without any tax, impost, or duty therefor: *Provided*, That nothing herein contained shall be construed as recognising or rejecting the propositions tendered by the people of California as articles of compact in the ordinance adopted by the convention which formed the constitution of that State.

Mr. FOOTE moved to amend the amendment by adding the following:

And that the said State of California shall never hereafter claim as within her boundaries, nor attempt to exercise jurisdiction over, any portion of the territory at present claimed by her, except that which is imbodied within the following boundaries, to wit: Commencing in the Pacific ocean, three English miles from the shore, at the 42d degree of north latitude; thence with the southern boundary line of the Territory of Oregon to the summit of the Sierra Nevada; thence along the crest of that mountain to the point where it intersects the parallel of latitude of 35 deg. 30 min.; thence with the said parallel of latitude to a point in the Pacific ocean three English miles from the shore, and thence to the beginning, including all the islands, bays, and harbors adjacent to or included within the limits hereby assigned to said State. And a new Territory is hereby established, to be called Colorado, to consist of the residue of the territory embraced within the limits of the said State of California, specified in the constitution heretofore adopted by the people of California; for the government of which Territory, so established, all the provisions of this act relating to the Territory of Utah, except the name and boundaries therein specified, are hereby declared to be in force in said Territory of Colorado, from and after the day when the consent of the State of California shall have been expressed in some formal manner to the modification of her boundaries above described.

The PRESIDENT stated the question to be upon the latter amendment.

Mr. SEBASTIAN called for the reading of the amendment, and it was read.

Mr. BERRIEN. Mr. President, I am very reluctant to trespass, even for a brief moment, upon the time of the Senate, or to attempt to stay the action of the majority in relation to the subject which is now under consideration. But I cannot feel that it is consistent with the duty which I owe to my own State, nor to the equally imperative obligation which I owe to the Union at large, not to make the brief suggestion which I propose to offer to the Senate. This is a proposition to restrict the boundary of the proposed State of California in the mode specified in the amendment, and to make that restriction one of the conditions upon which California is to be admitted into the Union. Now, sir, my colleague stated yesterday to the Senate the position which has been assumed by that State of which we are both representatives. It is not my purpose in this chamber to discuss the question of its propriety. I present merely to the consideration of the Senate the fact that it has been assumed that the obligation imposed by the legislature of that State upon the Executive is imperative, and that the call of a convention to consider the state and condition in which the United States will be left by the passage of this act must be the inevitable result of its becoming a law, with the boundaries prescribed by the constitution formed by the people of California. Sir, I do not mean to enter into a discussion of the questions which were debated here yesterday. It does not appear to me—I submit with great respect to gentlemen who entertain different opinions, and meaning to express mine merely as the rule by which I shall regulate my own conduct—it does not appear to me that this is the proper theatre on which to discuss the question of the rights which the States of this Union may exercise in the event of any legislation by Congress which they shall consider inconsistent with their constitutional rights. That question will be decided by the people of each State, not by their representatives here. I have no authority, in the commission which they have intrusted to me, to enter into such a discussion on such a theatre. When—which I hope may never occur—when the Congress of the United States shall pass any act which the people of any of the States of this Union shall consider as violating their constitutional rights, my own view of the subject is, that the proper theatre for such discussion is within the limits of such State.

I do not entertain a doubt that upon the passage of this bill in the form in which it is presented, the governor of the State of Georgia, acting in obedience to the resolutions of her legislature, must convene a convention, and that the people of Georgia, assembled in convention, will then deliberate what are their rights and duties consequent upon such legislation. To the citizens of Georgia, members of that convention, it will be competent to express the opinions entertained by them as to the obligations imposed upon the people of that State, the rights which they may exercise, and the duties which they are required to perform. Until that time arrives—and I pray that it may be averted—I desire to avoid the discussion of the subject, expressing only my opinion that the people of that State, if they shall so convene, and if they shall decide that their constitutional rights have been violated, will fulfil the duties devolved upon them by that state of facts in such a manner as may become freemen and patriots, with a full sense of their obligations, and of the responsibility consequent upon their decision.

But, sir, the consideration which I desire to present to the Senate of the United States is this: If it be believed that the governor of any State of this Union, acting in obedience to legislative resolutions of such State, will feel himself obliged to assemble her people in convention for the consideration of the grave and exciting question which now agitates and disturbs the Union, and which we for the last eight months have been endeavoring in vain to settle—if it be simply believed that such a consequence will follow, I ask senators to consider how much the assemblage of such a body, under such circumstances, will be calculated to increase the excitement, and calmly to determine whether this is not a sufficient reason for endeavoring to avoid that necessity. It is unnecessary for me to discuss the right of secession, the right of a State to withdraw from the Union. What I desire to say is, that the people of one of those States will be assembled in convention for the purpose of considering the grave questions presented by this and other acts of Congress, which they may regard as violating their constitutional rights. I ask you to consider whether the assembling of that convention will probably be confined to the people of that particular State; whether the effect will not be to increase the excitement which now agitates and disturbs the Union; and whether, in fact, it may not lead to consequences which we shall all deplore? In this view of the matter, the question I desire to ask is, whether the enlargement or restriction of this proposed State of California be a consideration which can be weighed in the balance against even these possible consequences? You have it in your power to restrict the boundaries of California. That is now the territory of the United States. You are about to admit a State, as a government, over a portion of it; and it is within your constitutional competency to decide over what portion the government which you are about to erect shall extend.

The question of power being undoubted, the remaining question is whether the restriction of the limits of California to 35 deg. 30 min., as proposed by the senator from Mississippi, [Mr. FOOTE,] is a consideration which can weigh in the scale with the consequences which probably or even possibly may arise from the increase of the excitement and agitation in a portion of this Union.

Sir, I have abstained and will still abstain from the discussion of those agitating questions which form the subject of debate. No man who has been engaged in public life during the period or even for a much shorter period than it has fallen to my lot to be, can, I presume, be without a decisive opinion upon these questions. I forbear to discuss them, because I desire to present this subject to the Senate in a spirit of conciliation. I ask them to exercise an undoubted power—one which they certainly possess—to restrict a boundary which it cannot be important to the interests of California to preserve, nor to any interests in the United States—not even to those who are most anxiously solicitous for the accession of an additional free State; I ask them to exercise that undoubted power in a matter so comparatively indifferent to California and to the United States, in view of the possible consequences which may result by the disturbance of the peace and harmony of the Union. I am not among those who desire to ascertain the strength of this government—its capacity, by a resort to physical force, to control the action of the free people by whom it has been established; but I do not hesitate to express the opinion that whenever those who direct it shall feel that they are authorized and compelled to resort to physical force for such a purpose, the Union, which is the result of the united counsels of our fathers, will have lost its value in the eyes of a great portion of the American people. I repeat, sir, I do not desire to test the physical strength of this government. I do not wish to see the experiment made whether it can carry out its edicts by military force, in opposition to the determination of the people of any one or more of the States of this Union. My belief is that this is the strongest government upon earth; but its strength does not consist in the physical force which it can command. It has a moral strength, founded upon the ties which unite us, a sense of common interest, a recollection of a common glory in the past, and the assured hope of a common and glorious destiny in the future. I believe that the strength of this government consists in its studiously abstaining from all resort to physical force for the purpose of executing its mandates—in a determined forbearance to abstain even from the expression of any intention or a determination to resort to such force. I believe that this Union will endure as long as its most ardent lovers shall desire, if that feeling shall be cherished by those who administer the government. If, actuated by the contrary feeling, they shall vauntingly proclaim to the people of the United States the existence of the power, and, if in their judgment the occasion shall require it, the disposition and determination to resort to military force to reduce to submission those who may question their authority, it will have lost the essential element of its strength—of its moral strength—the affection of the people of the United States. Sir, a people may be dragooned—may be driven by military force into submission. By the exercise of such a power they may be rendered the fit subjects of despotism. But it is not by such means that you can qualify men for the discharge of their duties as citizens of a free republic.

It is with this feeling strongly pressing upon my mind, with an anxious desire that those consequences which, if they be not probable are possible, may result from pressing, in its present form, the measure under consideration, may be averted, that I have felt it to be my duty to present the subject in this aspect for the consideration of the American Senate. The people, not of the South or of the North, but the people throughout the United States, will thus understand that if this measure—I mean the admission of California with her present constitution and boundaries—shall result in producing an excitement which it may be found impossible to control, the people throughout this Union will understand that the Senate of the United States have deliberately chosen to adopt that course, rather than the more conciliatory one which might have averted these consequences—the restriction of the boundary of that State in the manner proposed by the senator from Mississippi, [Mr. FOOTE.]

Mr. FOOTE. Mr. President, some remarks of the senator from Georgia, connected with the debate of yesterday, call for an explanation of my own attitude. I know he did not intend to connect me with the subject he remarked upon—the case presented by the admission of California with her present unrestricted boundaries—in which case Georgia has resolved, it seems, upon further action, because I did not remark upon that case. Some remarks which fell from me yesterday might be grossly misunderstood, and I might suffer serious injustice. I therefore repeat that what I said had no reference at all to the admission of California with unrestricted boundaries, and with her present constitution. It had no reference to a case of actual aggression. On the contrary, I said that in case aggression amounted to intolerable aggression, the necessity of revolution would instantly arise. But I did say, and I stand by it, that if any body of men should rise and say, without just provocation, that they will oppose the government, and not obey its laws, but will secede from this Union, and break up the Union, with or without aggression, those men, wherever found, are traitors, and must be dealt with as traitors. In this I am sustained by every President, from Washington down. It must be the doctrine of every man that loves his country, and who is anxious to sustain this Union in opposition to faction. It is well known that General Washington recommended in the most earnest manner to march an army to Massachusetts once, for the purpose of putting down the Shays' rebellion. He also marched an army to Pennsylania, in order to put down an insurrection there. I do not believe we have ever had a President of the United States who would not, in case of insurrection in any part of the Union, be willing to do his duty. I did not intend to say a word upon the case presented by the senator from Georgia here to-day. I will say that there has been a fair opportunity of adjusting this question; and if it is not adjusted, the South is as much to blame as the North. A plan of adjustment, equitable in its character, has been presented. From the opposition of southern men, as much as of northern men, it has been defeated. Now, the case is presented by certain gentlemen in South Carolina, that they are justified in rising in rebellion merely from a failure on our part to legislate. If so, then this government is not worth living under. I read from a certain speech yesterday, which all must recollect, which solemnly declares that if Congress shall undertake to admit California into the Union at all, South Carolina will secede from the Union, and seize upon California, upon the mouth of the Mississippi, and blockade the western States. I say, in such a case as that, if the President of the United States did not enforce the authority of the government, he would be recreant to principle. That is what I said yesterday, and it is what I say to-day, and am prepared to maintain. I do not conceive this language, as suggested by the senator from Georgia, improper or dangerous. On the contrary, I know nothing more dangerous than the advancement of the sentiments of the senator from Georgia, that it is improper, or dangerous, or censurable in any respect, to assert that this government will maintain itself against faction. The contrary idea will give faction a triumph over government. It is important on this occasion, as well as on the occasion in which General Jackson had to act, that the wholesome idea should be inculcated that this government is one of force as well as of law, and will maintain itself against traitors.

Mr. BERRIEN. Mr. President, I thought I had protected myself against the commentary of the senator from Mississippi by the express declaration, when speaking of the debate of yesterday, that what I said upon that subject was merely the expression of my own opinion as to what was the proper rule of my own conduct. It seems to me difficult to misunderstand a declaration which is in the very act of its utterance confined to the expression of the rule of conduct of the individual by whom it is made. I do not undertake to play the part of censor in the Senate. I do not undertake to question the propriety of the remarks made by the senator from Mississippi or by any other senator; but my simple object was to explain why I did not enter into a discussion which seemed to have excited so much interest, and to do that by stating what I considered the proper rule of my own conduct. Now, sir, I have no hesitation to repeat, in expressing my own opinion, and confining the declaration to that, that, in my sincere conviction, the most effective mode to destroy the real strength of this government is the declaration or intimation of an intention to resort to military force for the purpose of enforcing its decrees. That is my own individual opinion. It is not a rule for the conduct of others. I offer no censure——

Mr. FOOTE, (interposing.) Will the senator allow me, in justice to myself, to ask him a question? Do I understand him as condemning General Washington for recommending the sending of a force to Massachusetts, at the time of the Shays' insurrection, or afterwards sanctioning the effort to put down the insurrection in Pennsylvania?

Mr. BERRIEN. If I understand the fact of the insurrection of Shays in Massachusetts, it was an insurrection against the State government.

Mr. WINTHROP, (interposing.) With the senator's permission, it was not merely an insurrection against the State government, but an insurrection which occurred prior to the adoption of the constitution of the United States; and although in some letter of Gen. Washington—to Governor Bowdoin, I think, then the chief magistrate of Massachusetts—he suggested the extreme desirableness that there should be some national government to send its arms to aid the civil government of Massachusetts, yet, as a matter of fact, there was none. We put down our own rebellion. The State authorities of Massachusetts, by their own arms, suppressed the insurrection of that day. And the honorable senator from Georgia will pardon me for saying that it has been my hope, from first to last, if there should be a rebellion anywhere, such might be the case again; that each State for itself would repel any force which might arise against the government either of the United States or of the State authorities.

Mr. BERRIEN resumed. The question of the senator from Mississippi is whether I disapprove the expression of the desire of Gen. Washington to enforce the government of Massachusetts. The senator will perceive at once, from the explanation of the senator from Massachusetts, [Mr. WINTHROP,] that there is no sort of analogy between the cases. The rebellion of Shays, as it is now stated, took place before the constitution was formed, and the regret expressed was that there was no national government competent to send the necessary force for its suppression. Does not the senator, and does not the Senate, perceive that, if such a case was to occur—an insurrection against the constitutional authority of a State—there is express power in the constitution for the interference of the federal government? It is made one of the duties of the federal government by the constitution. But it is a totally different case from that just presented, when the constituted authorities of a State shall unite in the determination to resist the action of this government. For that there is no provision in the constitution. And when the senator points me to the case of Pennsylvania, he recollects very well that it was not the action of the constitutional authorities of Pennsylvania, but the action of an unorganized body of people, citizens of Pennsylvania, not acting under its authority, but acting in opposition to the authority of the United States. There has been no precedent for the case now submitted. I trust in God such a case may never occur. And it is from the sincere desire which I feel to avert its occurrence, that I have made the suggestions which I have made to-day, and that I have expressed the opinion which I have expressed, that this declaration of the possession of power, and intimation of a disposition under given circumstances to exercise it, controlling the action of the States of this Union by physical military force, is one which is calculated to produce the very result which we are all so desirous to avert.

Mr. FOOTE. I hope I was not understood by any one as expressing a desire that such a consequence as that spoken of should arise; that there should be a collision of arms between any portion of the United States and the government of the United States. I certainly never expressed any such sentiments, nor have I ever entertained them. But I did say that if any State of this Union—as I found to be threatened in a certain quarter—should be found so rash as to attempt to seize upon California, and blockade the mouth of the Mississippi, with or without provocation, it would be the duty of the government to assert its just authority, and that to remain silent, when the contrary doctrine is asserted, would be to enfeeble the action of the government. The senator from Georgia will not disagree with me, that if the State of Delaware—I speak of one of the smallest States of this Union, because the same truth in relation to a larger State is apt to confound even legal gentlemen—if Delaware were to-morrow to withdraw from the Union, and declare its determination to be out of the Union, to establish free ports, and to provide military means of defence against the Union, it would be the duty of the United States government to use the language of solemn warning to the citizens of that State, to put them in mind of their constitutional duties, and to assure them, painful as the duty might be, that it would be the duty of the federal government to put down any insurrection which might occur. Is not that a case of domestic insurrection? Surely it is; and it is the duty of the government to suppress domestic insurrection as well as to maintain the laws. I will not now discuss the question of State sovereignty, and all that; I only speak of the case presented by me yesterday. I say again, as at first, that wherever any body of men shall present themselves in lawless array against this government, declaring that they will break up this Union of ours to gratify their own caprice, their own extravagant and lawless desires, those men must be recognised as lawless, unprincipled men, and punished accordingly. So Washington would speak from the grave, if he could now speak to us. So would Jackson, and every patriot who has been distinguished in our land.

Mr. ATCHISON. I differ entirely from my friend from Mississippi [Mr. FOOTE] in one position which he has assumed. I have followed his lead for the last six or seven months. I have voted for and sustained the bill for the admission of California, the organization of territorial governments, &c. But, sir, during all that time, it never entered into my mind for one moment to censure or denounce any southern man for voting against the bill. I felt as if I was conceding all; as if I was surrendering everything except the honor of the South and the honor of the slave States of this Union. I was willing to make that concession and that surrender for the sake of having peace and tranquillity once more. It was the impression upon my mind that the responsibility of the defeat, if any there should be upon this measure, rests upon them, and upon them alone. It was nothing more than a surrender, the forms of that surrender being prescribed by ourselves. No man will doubt it, upon one hypothesis, and that is the great truth of law suggested in one of the resolutions of the senator from Kentucky [Mr. CLAY] in the early part of this session—the great truth that Mexican laws had abolished slavery in all the Territories acquired from Mexico, and that they still remained in force, and would remain in force until repealed by positive enactment. If this hypothesis be true, was it not a complete and unconditional surrender, upon the part of the slave States, of every good gained from Mexico? But I concur with my friend from Mississippi; for I do not believe in the truth of this great truth of law. I differ from the statesman from Kentucky. I believe with southern statesmen and southern lawyers, that it was a most preposterous proposition. And hence, sir, I voted for the bill, leaving the whole question to the decision of the Supreme Court of the United States, whether this was a truth or whether it was not a truth of law. Under this state of the case, do our southern friends, who thought proper to oppose this bill, deserve censure from any quarter, either North or South? I think not, sir. Such were my feelings during the whole contest upon this bill. Every northern man who opened his mouth upon this question asserted this great truth of law, and an additional truth, that no legislation could overcome the laws of Nature, which excluded slavery from all these Territories. If they believe what they say, have they not now everything they could expect from positive legislation, either by the Wilmot or any other measure? The responsibility lies with them. It was a stretch of patriotism in a southern man, the representative of a slave State, to vote for that bill. I felt the responsibility I would justly incur, but I was willing to meet that responsibility for the sake of peace and tranquillity.

The honorable senator from Georgia [Mr. DAWSON] says, that the legislature of that State—by, I do not know how large a majority, but if my recollection is right, by two-thirds of each branch of the legislature—adopted a resolution that if Congress passed a bill admitting California, with her constitution and boundaries as she presented herself, the governor should call together her legislature. The senator from Georgia, yesterday and to-day, rose to ask and implore the Senate to relieve the State of Georgia in the present state of excitement, and to relieve the governor of Georgia from the necessity of calling her excited legislature together at this time. Is there anything unreasonable in this?

On yesterday, the distinguished senator from Ken-