

Columbus Democrat.

VOL. 4.

COLUMBUS, MISSISSIPPI, SATURDAY, FEBRUARY 10, 1838.

NO. 31.

THE DEMOCRAT

IS EDITED AND PUBLISHED EVERY SATURDAY BY
WORTHINGTON & LESTER
Publishers of the United States Laws.

TERMS OF THE PAPER—\$5 per annum in advance,
or \$6 at the end of the year.

Letters to the Editors on business connected
with the office, must be post paid, or they will not
be attended to.

Advertisements not marked with the number of inser-
tions, will be published until forbid and charged
accordingly.

Publications of a personal nature will be charged
double price.

GOVERNOR'S MESSAGE

ACCOMPANYING THE BANK COMMISSIONERS' RE-
PORT.

To the Senate and House of Representatives of
the State of Mississippi:

Herewith I transmit the Report of the Bank
Commissioners of the State of Mississippi, shew-
ing the situation of that portion of the Banks ex-
amined by them. The facts therein disclosed,
and the magnitude of the abuses proven to exist,
cannot fail to arrest the serious attention of the
Legislature, and demand a speedy and efficient
correction.

It appears from the report that a few persons
have obtained the control of the various banks,
and made most of the loans to commission
merchants, speculators, and officers of the banks, and
we are left to infer that the large borrowers are
totally unable, at present, to pay any part of their
loans. The banks, therefore, are now looking
to the planters—the drawers and endorsers of
the bills—for their security, and depend entirely
on them for ultimate payment. This deplorable
result has been mainly effected by the course
which the banks have pursued in applying most
of their funds to the purchase of bills of exchange
drawn on cotton monopolists, and not predicated
on funds in hands, or even expected at the time
and place of maturity. Two causes have led to
this policy. In the first place, the commission
merchants contrived, either directly or indirectly,
to obtain the control of the banks—secondly, the
unjust practice of the banks in taking usurious
interests, in the shape of exchange, induced them
to discount all the bills they could obtain, and in-
stead of a small portion of their capital in the
discount of notes. By so doing, they were en-
abled to make large profits for the stockholders,
but deprived that portion of the people who were
unable to obtain New Orleans acceptances, of all
participation in the benefits of their loans. The
banks seem not to have considered that the ability
of the commission merchant to pay his acceptances
was dependent, almost entirely, on the
payments of produce by the drawers of bills, and
that whenever they discounted paper not predicated
on remittances of cotton, but on credit
alone, they thereby hazarded the safety of their
several institutions and jeopardized the interest of
the whole community.

The seventeen banks and branch banks ex-
amined by the commissioners, had \$363,304 95
of specie in their vaults, and have made advances
on cotton to the amount of \$314,367 12, while
their circulation amounts to \$3,840,321—their
deposits to \$1,401,248 06; and the amount
due them from other banks exceeds their liabilities
to the same. The report does not show what
amount of their notes and bills discounted are
available now or will be in any given period.—
The ability of the banks to resume specie pay-
ments, and at the same time to keep in circulation
a currency sufficient to meet the demands of
the country, depends on the availability of their
discounts. Judging from the vast amount of
loans made to a few individuals, combined with
a knowledge of the fact, that the means of the
borrowers consist mostly of unproductive prop-
erty, I conclude that the banks will not realize
much from those who are heavily indebted, for
several years to come.

The abundant resources of the State, how-
ever, together with the fixed determination man-
ifested by the people to incur no new debts which
they can possibly avoid, will have a favorable in-
fluence in restoring confidence, and soon enable
the banks to resume specie payments. Harmon-
ious action, is nevertheless indispensable, and
the banks should be prohibited from extending
their issues until the resumption is effected. The
present circulation of our banks amounts to more
than six millions of dollars; a portion of it, how-
ever, is not in active circulation, but held by the
several banks. A circulation equal to one-fifth
of the annual products of the country is admitted,
by political economists, to be amply sufficient.—
Our exports cannot be safely valued at more than
fifteen millions of dollars. The product of the soil
alone can be relied on to pay our foreign
debt and restate our credit. Excessive bank
issues would only cause our currency to depreci-
ate still more, prostrate the resumption of
specie payments, and demoralize the country.

An imperious sense of duty requires me to call
your attention to the situation and conduct of the
Planters' and Agricultural Banks—chartered for
the express purpose of promoting our great agricul-
tural interests, they have, from their com-
mencement, disregarded their respective charters,
totally neglected the great objects of their crea-
tion, and defied the legislative will of the people
in refusing an examination of their affairs by
Commissioners appointed by the Legislature for
the express purpose of thoroughly inspecting the
operations of every noxious corporation in the
State. The law under which the commissioners
were chosen, was approved more than a week
after both of these Banks had suspended specie
payments, and thereby placed their franchises at
the mercy of the Legislature. A charter to a
corporation is a grant of privileges—any viola-
tion of their powers is a misdemeanor, and works a
forfeiture. One mode of examination prescribed
in a charter does not necessarily exclude such
other mode of visitation as the Legislature may
designate; neither can the grant of charters to
those banks be considered as contracts. No
bonus was paid by either: the great object of
their creation was the promotion of the planting
and commercial interests of the State, by the dis-
tribution of loans according to the spirit of their
respective charters, and at the same time afford
to the people a currency equivalent to gold and
silver.

the Planters' Banks, and the various amendments
thereto, conclusively shews that it was intended
that a large portion of its capital should be dis-
tributed among the several Senatorial Districts,
loaned on mortgage security; and that the re-
spective subscribers for stock should pay the
amount subscribed in gold or silver coins, the
notes of the Bank of Mississippi, or those of the
United States or any of its branches. These salu-
tary provisions have never been enforced. The
subscribers paid for their stock in part by dis-
counts in the Planters' Bank, and no part of their
capital stock has been loaned on mortgage secu-
rity. The directors of the mother bank have al-
so refused to permit a director, duly commissioned
on the part of the State, to take his seat at the
bank, under the pretence that every director was
required by the charter, to at least ten shares
of the capital stock. I do not consider that the
original charter sanctions such an interpretation.
The 33d section evidently qualifies the 12th;
but all doubt is removed by reference to the first
section of the act approved February 5th, 1833,
which repeals the 12th section of the original act.

The State owns stock amounting to about two
million two hundred and twelve thousand seven
hundred and forty dollars and thirteen cents, in
the Planters' Bank: all of which has been paid
in actual capital. Individuals took two Millions
of stock, a great portion of which is believed to
have been paid in stock notes, which remain un-
cancelled to this day, having been renewed from
time to time.

Inasmuch as the Planters' and Agricultural
Banks have refused a scrutiny into their affairs, I
have procured a public document which shows
their situation in March last. This statement
was compiled under the direction of the Secretary
of the Treasury, from actual returns made by
those banks, and as it has been long since pub-
lished and not contradicted, it may be relied on
as correct.

Means of the Planters' Bank, April 27th, 1837.

Loans and Discounts,	\$3,733,166 55
Bills of Exchange,	2,880,334 29
Suspended Debt,	2,307,228 46
Stocks,	42,200 00
Real Estate,	184,678 65
Other Investments,	87,367 90
Due from other Banks,	66,685 73
Notes of other Banks on hand,	48,908 00
Specie,	501,521 01
Total amount Resources,	\$9,752,280 59

LIABILITIES.

Circulation,	\$1,583,897 13
Treasurer of the U. States,	1,035,504 88
Public officers,	29,084 13
All other Depositors,	345,362 00
Balances due to Banks,	707,413 32
Other Liabilities,	918,441 23
Capital Stock,	4,203,740 00
Total amount Liabilities,	\$8,823,422 93

Balance after paying off all debts, \$928,887 90

AGRICULTURAL BANK, May 1st, 1837.

RESOURCES.

Loans and Discounts,	\$2,388,695 56
Bills of Exchange,	2,094,263 50
Suspended Debt,	910,444 73
Real Estate,	37,394 22
Due from Banks,	33,649 60
Notes of other Banks,	41,050 00
Specie,	151,465 76
Total amount Resources,	\$6,159,465 45

LIABILITIES.

Circulation,	\$1,075,573 77
Treasurer United States,	1,103,636 95
All other Depositors,	384,696 72
Due to Banks,	664,902 44
Other Liabilities,	591,840 07
Capital Stock,	2,000,000 00
Total amount Liabilities,	\$5,850,649 92

Surplus over Liabilities, \$339,123 53

Showing the circulation of those two banks to
be \$2,659,470 90, a sum nearly equal to two-
thirds of the whole circulation of the seventeen
banks examined by the commissioners. Their
specie, at the same time, amounted to \$592,956
77. I have no means of arriving at their present
circulation, but from the fact of their having made
heavy purchases of cotton, and advanced large
sums on that article, it may be inferred that their
issues are now greater than on the 1st May, 1837.

All the revenue of the State is deposited in the
Planters' Bank, which also has the control of the
sinking and other large funds in which the State
is deeply interested. The faith of the State is
pledged for the redemption of the bonds sold and
invested in stock of the Planters' Bank, amount-
ing to two millions of dollars, and in the event of
a failure of the bank to pay the principal and in-
terest of these bonds, the persons and property of
all our citizens would be subjected to taxation.

The State being the largest stockholder in the
Planters' Bank, and all her citizens deeply inter-
ested in the fidelity of the management of the in-
stitution, it is indeed passing strange that the di-
rectors representing less than one-half of the
stock should deny the State directors admission,
and refuse an examination by commissioners dele-
gated by the Legislature—the sovereign power
of the State—for that purpose.

The charter of the Agricultural Bank makes
it the duty of the Governor of this State, to ap-
point annually, a competent person to inspect
such general accounts on the books of the bank
as he shall deem necessary, and faithfully to re-
port every violation of the fundamental rules of
said corporation." So far as I can ascertain, no
such agent has been appointed for more than two
years, and I am not aware that any thorough ex-
amination has ever taken place. This bank has
been selling specie, and specie certificates, and
discounting freely bills of exchange, at usurious
rates of interest, made enormous profits for her
stockholders. It is believed, that not long be-
fore her suspension, she declared and paid to her
stockholders a dividend of about twelve and a
half per cent. on her profits, for the preceding six
months, and had a surplus of profits accruing dur-
ing the same period of about three and a half
per cent. Such a dividend is unparalleled in the
history of banking, and proves either that the
bank infringed on her capital, or was unusually
successful in her operations.

The Planters' and Agricultural Banks, being
the oldest institutions of the kind in the State,
were, nevertheless, the first in the Union to sus-
pend specie payments, and the only ones that il-

llegally refused an examination by the commis-
sioners. These facts, together with the great in-
terest which the State has in the soundness of the
former, have induced me to call your particu-
lar attention to their conduct, and to respectfully
urge the adoption of such measures as will vindi-
cate the honor and secure the interests of the
people of the State. The "grave doubts enter-
tained" by the Directors of the Lake Washington
and Deer Creek Rail Road and Banking Com-
pany, "of the constitutionality of the Legislature
from which the powers of the commissioners eman-
ated," have disappeared, and they are now will-
ing to be fully examined. Appended, will be
found the statement of its affairs certified by the
new board of directors, and transmitted to the
Auditor for the inspection of the Legislature.

It remains for me to recommend to the repre-
sentatives of the people, such measures "as I
may deem necessary and expedient."

All the banks in operation last May, having de-
feated the great object of their creation by failing
to fulfill their contracts, should be brought under
general and strict regulations, and required to
give their assent in a stipulated time to a general
bank law, neither should they be suffered to de-
clare or pay dividends, so long as they refuse to
fulfill their obligations to their creditors and the
community. The stockholders being now un-
able to pay the residue of the instalments due or
to become due on their stock, it is unnecessary
to make any further calls, and the capitals of the
several banks should be reduced to the amount
actually paid in.

A sordid desire on the part of the managers of
banks, to make large dividends for the stock-
holders, enhance the value of the stock, and secure
to the officers a continuation of their places, hav-
ing greatly contributed to produce the existing
distress, no bank ought to be permitted to de-
clare a larger dividend than three and a half per
cent. semi-annually. If more is made, one per
cent. to be retained for a contingent fund, and all
profits over eight per cent. paid into the State
Treasury, and applied to the support of free
schools.

Legislatures charter banks to enable capitalists
to make safe investments, and to furnish the
community with the means of acquiring loans;
unless corporations are so modified as to subserve
the public good, they are contrary to the genius
of republican government: monopolies can never
be tolerated by a free people. Those who take
stock, admit that they have a surplus capital, and
can have no just claim on the banks for loans.—
The sale of the stocks owned by our citizens,
would afford great relief to the banks; the hold-
ers of stocks in this State, are the largest bor-
rowers of the banks. It is not to be expected,
that the officers of the banks will press their
stockholders or curtail their own accommodations,
unless compelled to so. The salutary effect
of limitations in their accommodations, as well as
in the tenure of their offices, will not be
questioned. Rotation in office would correct
existing abuses; the new directory would gener-
ally scrutinize the affairs of the bank and correct
such abuses as may have taken place. If one
third of the directors were required to go out of
office every year, and none permitted to serve as
directors more than two years out of six, we
might reasonably expect greater fidelity in the
management of the banks. Foreign stockhold-
ers control the election of directors in nearly all
of our banks; their great object is to make money
and keep up the price of their stocks; they centre
all their proxies in the hands of the cashier
or some other confidant—control the election
of directors and select such as they deem best
calculated to promote the interest of the stock-
holders; the interest of the country is a secondary
consideration. No officer of the bank ought to
hold proxies, and the votes by proxy should be
limited.

The banks can extend their issues to ten times
the present amount, if their continued refusal
to redeem their issues is sanctioned by the pub-
lic voice. This would forever put it out of their
power to resume; interest is the great lever
which guides them, and they are well aware that
they can greatly increase the profits of their stock-
holders if their suspension is countenanced. For-
eign exchange is now about three per cent. be-
low the specie rate of exchange; this will cause
the precious metals to flow into the country and
we may safely calculate on an abundant supply
during the present year. In New York, ex-
change on New Orleans is three and four per
cent., while it is fifteen or twenty on Natchez.
The cotton now on hand and already shipped will
remedy this unjust discrimination.

Most of the solvent banks of the Union will
resume specie payments in the course of the en-
suing spring and summer. The banks of Mis-
sissippi have resources as ample as those of any
other State, and with two exceptions, their liabil-
ities are much less in proportion to their available
means. During the next summer and fall, the
banks, by issuing post notes, payable at the ma-
turity of the crop of 1839, would be enabled to
withdraw their circulation payable on demand,
and substitute notes payable at a future date, bear-
ing interest. These would pass more readily
than the present irredeemable currency. I am
fully aware that the great objection on the part
of the banks to such issues, is, that they curtail
their profits. This argument, however, should not
have much force, their improvident management
has mainly contributed to the present disorgan-
ized state of our currency, and they should cheer-
fully contribute their aid in giving to the people,
at the earliest possible period, a sound currency.
Necessity alone could excuse their suspension,
but nothing can justify their failure to redeem
their issues at any moment when they have the
means in their possession.

Money is now abundant in Europe, and can
be obtained on unquestionable security at low
rates of interest. The rage for speculation has
subsided, and every indication warrants the speedy
restoration of confidence. Entering into these
views of the situation of the banks of this State,
and of the favorable change about to take place,
I respectfully suggest that all our banks be com-
pelled to resume specie payments on or before
the first of November next, and that such of them
as refuse to comply with this requisition, be com-
pelled to wind up their affairs, for the benefit
of their creditors and stockholders.

The Legislature should retain by express pro-
vision, the power of altering, amending or repeal-
ing bank charters at pleasure. This salutary
check would compel the banks to attend to the
wants of the people, and the representatives of
the people would never exercise the right, unless
the public good imperiously demanded their in-
terposition. An examination of the charters of

the various banks in the Union, will show that
the power of repealing charters is expressly re-
served in several of the States, and never has
been exercised, except in cases where gross
fraud and mismanagement in the affairs of the
bank has been conclusively shown.

If I am correct in the principle, that a bank
charter is a grant of privileges which the corpora-
tion cannot transcend, without incurring a for-
feiture, it will be found proven, on an inspection
of the report of the bank commissioners, that all
the banks examined have exceeded their powers,
by engaging in the purchase and shipment of
cotton. The banks not examined have pursued
the same course. In point of fact, the banks have
taken the place of the commission merchants;
time alone can determine whether this policy will
result in favor either of the banks or the planters;
should cotton advance, few complaints will be
heard, but should it remain at its present price or
recede in foreign markets, the murmurs of the
growers will be incessant, and the whole sys-
tem soon explode. The only excuse on the part
of the banks for dealing in cotton, is the tyrant's
plea—necessity! It is used to justify every
abuse of power and every assumption of
authority. The Legislature is the sole judge of
the necessity; if they deem it advisable, they can
sanction the conduct of the banks. As a tempo-
rary expedient it may, perhaps answer; but it
would be dangerous to continue the power long
in the hands of corporations, of controlling and
selling the great staple of the country.

In conclusion, I suggest to the Legislature, the
propriety of taxing the stock of all banks and other
corporations in this State; those excepted,
which are compelled to construct rail roads.

A. G. MCNUTT,
JACKSON, (Miss.) January 17th, 1838.

MISSISSIPPI CONTESTED ELECTION.

MR. CLAIBORNE'S ARGUMENT.

Read in the House of Representatives, Jan. 16,
1838.

A severe illness, which confines me to my
room, will prevent my taking part, personally, in
the discussion of the questions in which I am in-
terested, growing out of the recent elections in
the State of Mississippi. I feel it to be proper
and necessary, therefore, to communicate, in
writing, those views which, were I able, I should
at a fitting time, express on the floor of the house
of Representatives. This course seems to be the
more requisite, inasmuch as my colleague, who
has a joint interest with me in the subject, is
also confined to his room by indisposition.

I am fully aware of the kindness and ability of
the friends who, in my absence, will maintain my
rights; and perhaps I may only weaken the ef-
fect of their exertions in my behalf, by what I
may now say. I believe, too, that no unfair
advantage of my absence would be taken by any
one member of the House. But it is right that
the views entertained by me should be expressed,
in justice to myself; so that, whatever may be
the result, there may remain some evidence that
I supported, to the best of my ability, what I con-
ceive to be the cause of those whose votes en-
titled me to a seat upon the floor; and that there
may be no ground for saying hereafter, that from
overweening confidence, or carelessness, or doubt,
I did not avail myself of the best opportu-
nity of doing so. I believe, too, that the gentlemen
who are fully persuaded, too, that the gentlemen
claim the seats of my colleague and myself,
would themselves prefer that we should adopt this
mode of presenting our views to the House; so
that their success, were they to succeed even,
might not, in any degree, be attributable to our
absence or our silence.

At the special session in September last, the
House, after full investigation, decided that my
colleague and myself were entitled to our seats
for the entire term of the 25th Congress. The
question then settled was one of law, arising out
of the Constitution of the United States and the
laws of the State of Mississippi. The only facts
involved were the proclamation of the Governor
of that State, and the consequent election, by a
majority of votes, of my colleague and myself;
facts which no one then or since has pretended
to deny, and the evidence of which was before the
Committee of Elections, and afterwards before
the House. Although we were the only persons
claiming seats as members elect from Mississip-
pi the decision made in our case cannot be term-
ed an *ex parte* one. An *ex parte* decision is one
in which the facts on one side only are exhibited;
or, all the facts being exhibited, the argument on
one side only is heard. In the case of my col-
league and myself, our right to qualify was de-
clared and put in issue, when we presented ourselves
for that purpose, before the House was organized.
The affirmative and negative of the proposition
were distinctly made out, and their respective
supporters in the House were arrayed against
each other. My colleague and myself were, in
fact, placed, by the course that was pursued, ap-
parently on the defensive; and in the prolonged
debate to which the subject gave rise, the talent, industry,
perseverance, and warmth manifested on both
sides, left nothing unsaid which could be brought
up for illustration, could be brought to bear upon
the questions involved in the discussion. Nei-
ther for want of facts nor of argument, therefore,
can the decision of the House, in September last,
in the matter of the Mississippi election, be called
an *ex parte* one; but it must be considered as a
grave and solemn adjudication deliberately made
by the competent and only authority.

The question that now presents itself is, Shall
the decision, thus made, be reviewed, to the end
that it may be reversed, because, differing in
opinion from a majority of the House of Repre-
sentatives, the Governor of Mississippi, pursuing
the literal tenor of a law of that State, has ordered
a new election to fill a supposed vacancy in its
representation, after the House of Representa-
tives, the only constitutional judge in the matter,
had determined that no such vacancy existed? Had
the new election not been ordered, or had the
present claimants not appeared, it is not for a
moment to be supposed that the House of Repre-
sentatives, of its own motion, would have reversed
its decision in favor of my colleague and my-
self, at this or at any other time. Is there any
thing in the facts which requires it to do so now?
Has any new fact, necessary to a correct deci-
sion, been brought to light, which was not before
the Committee of Elections and the House in
September last?

I have heard it suggested that, in September,
the credentials of my colleague and myself were
not before the committee. Now, it is well known
that the credentials of a member elect are rarely
if ever, demanded, when he presents himself to
qualify; and, that, perhaps, not one half of the
members have their credentials in their posses-
sion. All that is necessary is satisfactory evi-
dence of the election of the individual. The law
points out no particular mode in which this is to
be given. The House, which, by the Constitu-
tion, is "the judge of the elections, returns, and
qualifications, of its own members," is the judge,
necessarily, of the evidence of their election, or,
in other words, their *credentials*; and cases have
occurred in which the House, not satisfied with
the evidence of election presented, has taken tes-
timony to show that the party presenting it has re-
ceived illegal votes; and therefore, although hold-
ing the ordinary credentials, was not entitled to
his seat. The credentials of the ordinary form
are, therefore, of themselves, of no binding au-
thority; and if the exhibition of them would not
repeal an examination into our title to our seats,
the want of them, if the House were satisfied of
our election by other means, could not defeat our
title; this is evident. The evidence of our right
to our seats, presented in September last, was a
statement from the Secretary of State of Missis-
sippi, under the great seal of office, of the votes
cast in the then recent (July) election. The or-
dinary certificate of election, or credentials, were
forwarded to my colleague, but never received by
him. Those sent to me were received; but,
perceiving that they curtailed the limitation of
the term of service mentioned in the Governor's
writ to hold the election, we applied for, and ob-
tained, the statement from the Secretary of State
to be used in their stead. All this was distinctly
stated by us to the Committee of Elections in
September last. Now the only matter which ap-
peared in the credentials, besides the election of
my colleague and myself, was, that we were elect-
ed for the special session only. This is all that
is pretended. Had this appeared in the creden-
tials only—had we, by not presenting the creden-
tials, withheld the only evidence of this matter,
there would be some ground for the suggestion
now made, that the credentials, not having been
before the committee or the House, all the facts
were not presented; and that the case, at this
time, should be re-opened to let in a new fact.
But is this so? Why, what was the question that
so long occupied the attention of the House in
September? Did it not grow out of the very
fact, now pretended to be a new one, that the
Governor's writ was for an election for the special
session only? Was not the only question
before the House, the question whether we were
elected for the special session, or for the whole
term of the Congress? And is it not strange
that it should be contended now, that the House
was without evidence of the fact, the existence of
which—the uncontroverted truth of which—was
the sole cause of all the protracted and excited
debate to which the Mississippi election of July
gave rise? The fact that we received a majority
of the votes then cast, was undeniable. The
fact that those votes were given at an election
held under a writ ordering one for a less period
than the entire Congress, was also undeniable;
and out of this fact grew the only discussion that
took place.

It has also been suggested that the official pro-
clamation of the Secretary of State of Mississippi,
summing up the whole number of votes given,
was not presented by my colleague or myself to
the committee in September last. Such procla-
mation was never given to us; but if it had been,
amounted to proof, that it would have only
of which other proof had already satisfied the com-
mittee, and which was not then, nor has it since
been denied—our election by a majority of the
votes cast under the writ ordering an election for a
less period than the whole term of the Twenty-
fifth Congress.

I have thus shown, that there were no facts ex-
isting at the time the House decided the rights of
my colleague and myself to our seats, which
were not then known to the House; and that the
matter now suggested as new, so far from being
so, is the very matter that gave rise to the discus-
sion of September. The fact is independent of
the form in which it is presented; and, whether
the House was informed that the election at
which we were chosen representatives was held
for a shorter term than the whole Congress, by
the production of the Governor's writ, the exhibi-
tion of credentials in the ordinary form, or universal
admission of the fact, is immaterial, if the House
was in the possession of the fact when it came to
its decision.

It has been said, however, that during the de-
bate upon the resolution declaring us to be duly
elected to the twenty-fifth Congress, oral proofs
or statements were made to the House in rela-
tion to the election in July, strongly calculated to
influence the judgment of the House.

During the discussions in September last, my
colleague and myself remained silent from mo-
tive of delicacy, except on one occasion, when, in
reply to a member from Ohio, (Mr. Mason,) who,
as we supposed, had misstated our course
and position, we declared, what we still believe,
that those who voted for us did so under the im-
pression that we would hold our seats during the
entire twenty-fifth Congress. We also stated in
an argument submitted by us to the Committee
of Elections, that the election in July was con-
ducted with great zeal and ardor, which was en-
tirely inconsistent with the supposition that the
people were misled, by the notion of the Govern-
or into the belief that they were only conferring
a temporary appointment for two months, to be
superseceded by members then to be chosen by a
new election for the residue of the vacancy. So
far, too, as the press may be considered indica-
tive of public sentiment, it may be safely stated
that, prior to the election, both parties assumed
the ground that the Governor had the power to
issue the writ; that he had no authority to abridge
the constitutional congressional term; and that
the members to be elected would serve during
the whole twenty-fifth Congress. In addition to
this, the honorable Hugh S. Legare, of South
Carolina, in his argument, read an article written
by a distinguished editor in Mississippi, (Mann
Butt Esq.) friendly to the election of one of
the present claimants, (Mr. Prentiss,) reiterating
what he had asserted when the Governor issued
his writ—that the members elect would serve
through the entire Congress, the Executive hav-
ing no power to abridge the constitutional term.
The statements made by my colleague and
myself, by the argument submitted to the com-
mittee, and by Mr. Legare in his speech to the
House, were to be found in the newspapers of the
day, which spoke for themselves. What weight
they may have had on the House is not known;

but it certainly could not have effected the deci-
sion of the legal question, upon which alone, our
right to our seats depended. That question arose
upon facts with which those here stated had nothing
to do.

Has any thing occurred since the decision of
the House in September, which can justify a re-
view of the decision? That the Governor of
Mississippi, still satisfied of the correctness of the
opinions entertained by him when he ordered the
special election, and pursuing the literal tenor
of the law of the State, should have ordered the
late election, was to have been anticipated. The
decision of the House of Representatives, how-
ever, did not require his conforming to it to make it
binding. Ought the fact that, at the late election,
others than my colleague and myself were chosen
to have any influence upon the present action of
the House? The House, in confirming the elec-
tion held in July last, decided in anticipation that
an election (the late one) held in November
would be a nullity. As it cannot have any influ-
ence, therefore, as a legal and competent act,
any weight that it may have with members, must
proceed from the belief that it exhibits the wishes
of a majority of the voters of Mississippi, and is
entitled to such consideration as would justify
the House of Representatives in reviewing, and, if
it please, reversing, the decision that has already
taken place.

The doctrine that an election, legal in itself,
may be set aside, and a member duly qualified
deprived of his seat, because, after his election,
a majority of his constituents become dissatisfied
with him, and elect, at their own time and place,
another, is indeed a novel one. The right of the
people to instruct their representatives, and the
duty of the representatives to obey such instruc-
tions or resign their seats, has long been admitted,
but it is yet to be maintained, that the House may
vacate the seat of a member because such in-
structions were disobeyed. Were the seats of
members dependent during their terms upon the
fluctuations of public opinion after their election,
the tenure would be indeed uncertain. And yet
the argument that would give weight to the recent
election in Mississippi, merely because it was
supposed to be indicative of the present opinions
and wishes of the people, would, if carried out,
lead to such conclusions. The fact that such
election was made according to the tenor of an
existing law makes no difference. If the object
of the election is illegal, it matters little whether
it is authorized to be held by the Legislature or
the Governor, or is the act of the people in their
primary assemblies.

I have thus attempted to show, that the deci-
sion of the House of Representatives on the rights
of my colleague and myself, in September last,
was not an *ex parte* one; that it was made upon
a full knowledge of the facts necessary to a just
judgment; and that nothing has occurred since,
which can impair its force or weaken its binding
character.

I contend, therefore, that the decision in ques-
tion is final and conclusive, and a bar to all fur-
ther proceedings. I am well aware that the term
thus used by me are as strong as I could employ,
and, in their strict sense, might imply that any
further action of the House would be impetive.
Such, however, is not the extent of my meaning.
In the case of a right vested in an individual,
under an act of the Legislature, creating a contract
between the individual and the State, a court of
justice will interfere to protect him from any fur-
ther legislation impairing or taking away his
rights. There is a power in such case to restrain
the Legislature from such an act, on the limits of
the Constitution. In the present case, the limits of
the Constitution make the House of Representatives
the supreme and only judge. The rights of the
member, awarded to him by the House, may, so
far as feeling, reputation, and honor are concern-
ed, be far more valuable and important to him
than any pecuniary interests that can grow up un-
der a contract between the State and an individ-
ual; but, while the latter is protected by a para-
mount authority, the protection of the former is
to be found only in the will of the Legislature;
and, should this be capricious, variable, or uncer-
tain, the individual experiences in his most valued
political rights all the wrongs against which
his rights to his property were effectually guard-
ed, when the Constitution made it the duty of the
courts of justice to protect them. It is the very
absence of any power to restrain the action of
the House of Representatives, in cases like the
present—that it is the very fact that its will is the law
—that the rights which it gives to-day it may take