FROM WASHINGTON.

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New-York Tribune.

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WASHINGTON, Thursday, April 5, 1866.

THE CIVIL RIGHTS BILL.

Could a vote have been had to-day in the Senate, the Civil Rights bill would have been passed over the veto. To-morrow the result will be doubtful, as Senators Dixon and Wright, who could not have been there this afternoon, may then be present.

It should be remembered that out of forty nine Senators now here, only eight were elected as Democrats. The others were chosen by the Unionists and Republicans, and the seventeen votes are made up by the betrayal by nine men of the party who sent them there.

There is no probability of either Senators Morgan or Doolittle obeying the instructions of their respective Legislatures to sustain the Civil Rights bill.

THE NEW-JERSEY SENATORSHIP.

Several telegrams have been received here to-day from Trenton, announcing that the Democrats have agreed to coalesce with Scovel and enough Republicans to elect Dayton, on written pledges that he will sustain the policy of the President. It is claimed that this trade has been brought about by Judge Hughes of Indiana and Ward H. Lamon, who went to Trenton to represent the President. This bargain and sale will probably be opposed by Mr. Stockton, who expects to be his own successor. It is well known here that not a single radical Republican Senator or member has any longer any confidence in Mr. Scovel, and none believe that any radical ideas are prompting him to his present course. He is openly denounced by Mr. Stevens as being guilty of a great outrage in opposing the election of Mr. Cattell.

A leading Democratic Senator to-day was handing around the Senate a telegram from Trenton urging him to secure a delay of the vote until they could get into joint ballot and elect a man who would be for the veto. This unexpected turn of affairs created a sensation, and the Opposition are quite jubilant to-night over their prospects.

THE BROOKS-DODGE CASE.

The case of Brooks against Dodge occupied the House all day and goes over till to-morrow. A desperate attempt is making to get the report of the Committee defeated, but it had not gathered sufficient strength to-day to accomplish that object. What may be the result to-morrow is somewhat doubtful, but the chances are still in favor of Dodge.

THE CURRENCY PICTURES.

Thayer's amendment to the Treasury Appropriation bill, to prevent the face of one Clark from defacing the currency, was lost because of the difficulty in making new plates for all living men who are now engraved. Had it been simply striking out Clark, no one would have objected. The Committee on Banking have a bill for that especial purpose drawn and ready to report.

REVENUE RECEIPTS.

The Internal Revenue receipts to-day were $1,800,880.

REMAINS OF UNION SOLDIERS.

It is in contemplation to remove the remains of Union soldiers from the battle-fields along the route of the Orange and Alexandria Railroad, and inter them in the National Cemetery on Arlington Hights.

THE CANAL NUISANCE.

The Washington Canal, which for a number of years has exhaled its noxious effluvia, and caused, according to the opinion of the medical fraternity here, a large amount of mortality, has at last been pronounced a nuisance by a competent Board of United States Engineers, who recommend to Congress the adoption of immediate measures to secure the thorough excavation of the filth of which it has been for so long the depository. The estimate of the Commission for cleaning the canal is $75,000.

WAR AND NAVY EXPENSES.

The disbursements of the Treasury Department on account of the War and Navy Department, for the quarter ending 31st March, were as follows: War Department for January, $25,251,936; War Department for February, $15,401,395; War Department for March, $8,608,981. Navy Department for January, $3,547,656; Navy Department for February, $3,032,006; Navy Department for March, $4,583,044. The one million increase in the Navy expenses for March was occasioned by large remittances abroad for the use of vessels on foreign stations.

ASSIGNMENT OF OFFICERS.

The commanding officers of the 10th and 13th Infantry and 2d Battallion of the 18th, have been ordered to report to Brig.-Gen. Cooke, commanding Department of the Platte, headquarters at Omaha. In case of the pursuit of mischievious Indians or whites infesting the border line, the troops will act without regard to the Department line, simply reporting their action through their own commanding officers to the Commanding General of the department invaded.

SMALL POX.

Dr. Hoover, Chief Surgeon of the Freedmen's Bureau, has received reports from all the late Rebel States, with the exception of Florida and Texas, showing that during the month of February last, 1,377 cases of small pox were under treatment by Bureau physicians, and that during the same period 248 deaths occurred. About one-tenth of all the cases treated by the Bureau in the South are those of small pox.

EX-REBEL VICE-PRESIDENT STEPHENS.

Alexander Stephens has been sending his cards to those whom he once knew here, and to others whose acquaintance he would like to have. He has had many callers at his rooms, and is lionized to no little extent. To-day he had a very long interview with the President, and pronounces himself thoroughly satisfied with the President and his policy. He expects to have his seat in the Senate at an early day.

COUP D'ETAT RUMORS.

A distinguished military chieftain has within the last few days been sounded by two noted politicians, one of whom was in the army, to see to what extent he could be relied upon to favor a coup d'etat by which the Southern Representatives are to be placed in both Houses of Congress. No encouragement was given, but the project has not been abandoned.

A JOHNSON FAILURE.

The Johnson meeting, got up by the claim agents, and intended to be a grand affair, was a grand fizzle. Few of the speakers announced were present. Less than a thousand persons were there, and no enthusiasm was manifested except when the poor African was mocked at. Edgar Cowan talked the loudest and longest, while Green, Clay, Smith, Marshall Gooding and Wm. F. Johnson (Pa.) followed. A man was introduced under the assumed name of "Gen. Swift," but proved a failure, and a man who was not on the bill. Getting the floor, the manager brought the meeting to a sudden end by putting out the lights, and there was no formal adjournment.

To The Associated Press.

WASHINGTON, Thursday, April 5, 1866.

A JOHNSON MASS MEETING.

A mass meeting of the friends and supporters of the Administration of Andrew Johnson was held to-night in front of the City Hall. Among the speakers were Senator Cowan of Pennsylvania, and Representative Smith of Kentucky.

REMOVAL OF SOLDIERS' REMAINS.

Quartermaster-General Meigs is contemplating the removal of the remains of Union soldiers from the battle-fields of Bull Run, Kettle Run, and other battle-fields or cemeteries of the Rebellion, along the line of the Orange and Alexandria Railroad, between Alexandria and the Rappahannock Crossing. The remains will be brought to Arlington Cemetery and deposited in stone vaults under ground, over which cairns or pyramids of stones may be erected.

MR. STEPHENS AT THE WHITE HOUSE.

Mr. Alexander H. Stephens called at the Executive Mansion early to-day and renewed his request for an audience with the President, which, after some delay, was granted. A least 100 persons were there this morning and afternoon, waiting for interviews.

SECURITY FOR DISCHARGED SOLDIERS.

Congress will doubtless pass a bill to secure discharged soldiers from robbery by unprincipled claim agents, who have flooded the country with circulars promising to obtain for them benefits which the laws do not allow. A movement was made by the House to-day in the direction of protection from abuses. Representative Farnsworth briefly referred to some of the frauds, stigmatizing many of the agents as rascals and thieves; and Speaker Colfax, and Messrs. Grinnell and Morrill severally mentioned the fact that their names had been used as references without their consent.

NAVAL APPROPRIATIONS.

The House to-day agreed to the amendments to the Navy Appropriation bill, appropriating $5,000 to test petroleum as fuel, and repealing all acts providing further appointments of navy agents.

XXXIXTH CONGRESS.

FIRST SESSION.

SENATE....WASHINGTON, April 5, 1866.

THE PARIS EXPOSITION.

Mr. SUMNER, from the Committee on Foreign Affairs, reported with amendments the joint resolution to provide for the expenses attending the exhibition of the products of the United States at the exposition of Paris in 1867.

The amendment, in the form of a substitute, is as follows:

Joint resolution to enable the people of the United States to participate in the advantages of the universal exposition at Paris in 1867.

Resolved, That in order to enable the people of the United States to participate in the advantages of the universal exposition of the productions of agriculture, manufactures and the fine arts to be held in Paris in the year 1867, the following sums, or so much thereof as may be necessary for the purposes severally specified, are hereby appropriated out of any money in the Treasury not otherwise appropriated:

First—To provide necessary furniture and fixtures for the proper exhibition of the productions of the United States, according to the plan of the Imperial Commissioners in that part of the building exclusively assigned to the use of the United States, $48,000.

Secondly—For the compensation of the principal agent of the exhibition in the United States at the rate of $2,000 a year (provided that the period of service shall not extend beyond 60 days after the close of the exhibition), $4,000, or so much thereof as may be found necessary.

Thirdly—For office rent at New-York; for fixtures, stationery and advertising; for rent of storehouses; for reception of articles and products; for expenses of shipping, including cartage, etc.; for freights on the articles to be exhibited from New-York to France and return, and for compensation of four clerks in conformity with the joint resolution approved on the 15th of January, 1866, and contingent expenses, the sum of $33,700, or so much thereof as may be found necessary.

Fourthly—For expenses in receiving, boarding, storage, cartage, labor, etc., at Havre, and railway transportation from Havre to Paris, going and returning, for labor in the palace, for sweeping and sprinkling compartments for seven months, for guards and keepers for seven months, for storing packing boxes, carting, and for material for re-packing, for clerk hire, stationery, rent and contingent expenses, the sum of $35,703, or so much thereof as may be found necessary.

Fifthly—For the traveling expenses of ten professional and scientific commissioners, to be appointed by the President, by and with the advice and consent of the Senate, at the rate of $1,000 each, $10,000, it being understood that the President may appoint additional commissioners, not exceeding 20 in number, whose expenses shall not be paid.

SEC. 2. That the Governors of the several States be and they are hereby requested to invite the patriotic people of their respective States to assist in the proper representation of the handiwork of our artizans, and the prolific sources of material wealth with which our land is blessed, and to take such further measures as may be necessary to diffuse a knowledge of the proposed Exhibition, and to secure to their respective States the advantages which it promises.

NATIONAL TELEGRAPH COMPANY.

Mr. SHERMAN introduced a bill to incorporate the National Telegraph Company, which was referred to a Select Committee of five, and is as follows:

SECTION 1. That George B. Senter, E. M. M. Keyes, George B. Walter, Frederic Prentice, Charles T. Sherman, Rush R. Sloane, A. H. Markland, J. R. Jones, Henry L. Barnett, Edwin Cram, Benjamin E. Smith, Robert Squires, E. S. Hamlin, and Jonathan S. Bull, and their associates and successors, are hereby constituted and created a body politic and corporate by the name of the National Telegraph Company, with the usual powers and privileges incident to corporators, and with the right and privilege to construct and operate lines of telegraph over any and all the post routes that are or that may hereafter be established within the United States or Territories.

SEC. 2. That the capital of the said Company shall not exceed the sum of ten millions of dollars, and such Company shall manage its business with such officers and such regulations as its by-laws may prescribe.

SEC. 3. That the various Executive Departments of the Government may use the lines of said Company at such rates and under such regulations as the Postmaster-General may from time to time prescribe.

SEC. 4. That Congress may at any time alter or amend this act.

SWORN IN.

Mr. POLLARD presented the credentials of the Hon. George F. Edmunds of Vermont, appointed to fill the vacancy occasioned by the death of Mr. Foot.

The oath of office was administered to Mr. Edmunds and he took his seat as Senator.

PETITIONS.

Petitions were presented against the admission of lately rebellious States without adequate security; asking for an equalization of bounties; asking Congress to enact an Eight-Hour Labor law, and for an increase of pensions. They were appropriately referred.

ARMS FOR DAKOTA.

The bill to provide arms for the defense of the people of Dakota Territory was then taken up and passed. It directs the Secretary of War to furnish 1,000 stand of small arms, and 100,000 rounds of ammunition to the people of Dakota, to enable them to repel Indian invasions.

BOUNTIES TO COLORED SOLDIERS.

Mr. WILSON reported the joint resolution respecting bounties to colored soldiers. It provides that the omission in the muster rolls of the words "free on or before April 19, 1861," shall not deprive any colored soldier of the bounty to which he is entitled, and which is now or may hereafter be withheld, by reason of such omission; provided, that nothing herein contained shall be so construed as to entitle soldiers who were not free at the date herein specified, to receive bounty.

Mr. WILSON offered an amendment to the effect that, in determining who is the wife of a colored soldier, evidence of cohabitation and living together shall be taken as proof. The resolution, as amended, was passed.

The Veto Message was then taken up.

Mr. JOHNSON (Maryland) said that in the discussion of the bill before the Senate, the question was not strictly a loyal one. There are questions of policy to be considered, questions of expediency. The objection which the President makes to the bill in returning it without his approbation, relates as well to the expediency of the measure as to its alleged unconstitutionality. The purposes of clothing the President with the veto power, were to guard his own department against encroachment by any other; to guard the States against a like influence, and to guard the individual citizen also. In addition to these objects, one of the purposes of the Convention was to guard against inexpedient and ill-considered legislation. Looking to what had taken place in the Congress of the Confederacy, and to what had occurred in the several State Governments, the members of the Convention of 1787 were satisfied that it was just as necessary for the public weal to protect the country against inexpedient legislation, or almost as necessary as it was to protect it against unconstitutional legislation. It has heretofore been denied by some, and doubted by others, whether the President is justified in using the power except upon constitutional grounds. That principle was argued by the leading members of the Whig party, at the head of which stood Mr. Clay, when they became very much dissatisfied with the exercise of that power by the then President of the United States, Gen. Jackson. The fact then called the attention of Mr. Madison. He expressed his opinion on it in a letter, written with the ability which always marked his writings, dated on the 15th of October, 1834. Mr. Johnson here quoted from the letter referred to, and continued: The honorable member from Illinois (Mr. Trumbull) seems to suppose that he finds valid objections to the exercise of this power by the President, in this instance, in the fact that the bill passed received the votes of more than two-thirds of the members of each House; and he cited, in support of that doctrine, a speech delivered by the President when he was a member of this body in 1859 and 1860. The Senate perhaps were induced, by what he read from that speech, to believe that the President stated the principle to be that a bill passed by a two-thirds vote could not constitutionally be subjected to the veto power. If he had read the latter part of the same sentence, he would have found that the President intended no such thing. The soundness of the doctrine expressed in that speech cannot be questioned. Mr. Johnson, when he was a member of this body, merely said that the fact that a bill was passed by the majority, rendered necessary for the purpose of overruling a veto, was a reason why he should very cautiously apply the power for its exercise; but so far from its being in the judgment of the Senate, as it certainly was not in the mind of Mr. Johnson at the time, that a bill passed by that majority placed it beyond the veto power, the honorable member's (Mr. Trumbull's) answer to a question which I put to him showed that, in the judgment of the Senate, the veto power was properly exercised, and a bill which, in that instance, had been passed by more than two-thirds of both Houses, did not become a law, as many who had voted for the bill changed their votes under the influence of the President's Veto Message. Now, Mr. President, in order to see exactly whether it was proper for the President to disapprove of this bill, it becomes necessary to ascertain with precision what the bill is. Mr. Trumbull insisted upon it that there is no section in it which is not clearly constitutional. He maintains the constitutionality of the first section, upon the ground, first: that it is merely declaratory of what a law is, and secured by that; if it was not declaratory, it was a law which Congress had a right to make, because in his judgment it is in the power of Congress by law to declare who shall be citizens of the United States. The honorable member referred to a case reported in the 6th of Peters, (the decision of Chief-Justice Marshall) for the purpose of showing that a citizen of the United States who had been naturalized, and who resided in any State of the United States had a right to go into Courts of the United States. The honorable member clearly, as I think, misapprehends the decision to which he refers. The question before the Court was whether it appeared upon the face of the pleading that the party going into the Court below had a right to go into that Court under the Constitution of the United States and the act of 1789 which was passed to carry out its provisions. The jurisdiction of a Court of the United States, where it was made to depend upon the character of a party, was given only in cases where the party plaintiff and the party defendant were citizens of different States. And the question before the Court was whether it appeared on the face of the declaration on this particular case that the party plaintiff was a citizen of a State, and as such entitled to go into the Courts of the United States. The language of the declaration was that he was a naturalized citizen of the United States, residing in the State of Louisiana; and the Court came to the conclusion that that averment was equivalent to an averment that he was a citizen of Louisiana in the absence of anything to the contrary. But that is not the question which this bill presents. He became a citizen under the naturalization laws of the United States, and the authority of Congress to pass such laws could not be doubted. The effect of the exercise of that power was to remove the disability arising from foreign birth, and to give him the capacity of becoming a citizen of one of the States. When the declaration therefore averred that the original disability of alienage was removed in that instance by the party having become a citizen under the naturalization laws, the only other question upon which the case before the Court was whether he was a citizen of a different State from the State in which the other party resided; and the Court decided that the averment of a residence in a State of one who was averred to be a citizen of the United States was equivalent to an averment that he was a citizen of a State. I suppose nobody who could well have doubted it will now doubt the correctness of that decision. The bill in its first section makes all who were born in the United States at any time, and who are now living, citizens of the United States, and as such, citizens of the States in which they may respectively reside, and confers upon them all the rights belonging to those who have heretofore been considered citizens of the United States and of the States in which they may reside. Now, Mr. President, you are not to be told that the only express authority conferred upon the Congress of the United States in relation to citizenship, that is to say in relation to the power of converting one who is not a citizen into a citizen, is the authority to be found in the delegation to Congress of the power to pass uniform laws upon the subject of naturalization. There is not a single word in the Constitution which gives to this department of the Government, or to any other department of the Government, power to declare who shall be a citizen, and what is the effect of the exercise of that power, what was the design of the power, and what is the operation of the power, when it is exerted. The design of the power is to remove disabilities arising from the fact of alienage, and nothing else. The operation of the power is to place the party whose disabilities, arising from alienage, are promoted by virtue of the naturalization laws in the same condition with anybody else; but, whether he is to be considered as a citizen of a State of the United States, by virtue of the removal of the disabilities consequent upon his taking advantage of the naturalization laws, presents an entirely different inquiry, and, perhaps, I cannot make the view, which I shall otherwise present in my own language more clearly to the country than by reading an opinion in the Dred Scott case (not that opinion pronounced by the majority, which has been so often and, as I think, slanderously perverted, to the disparagement not only of the majority of the Court who sanctioned that opinion, but of the very admirable lawyer by whom the opinion was pronounced), the opinion of Mr. Justice Curtis, in which he differs from that of the majority—an opinion marked by learning to that of as great an extent as any opinion ever pronounced by any Judge of that or any other tribunal. The question, which in that part of the opinion he was discussing was whether Dred Scott was a citizen entitled to sue in the courts of the United States. A majority of the court decided that in consequence of the blood that was supposed to run in his veins, his descent from African ancestors, and his having come to the United States a slave, he could not become a citizen of the United States. Mr. Justice Curtis held that the Constitution of the United States assumed that citizenship might be acquired by nativity; that it was the common law, that it was the law of the civilized world that he who was born in a country, and not made a slave at the moment he was born by any municipal regulations, became, by virtue of his birth a citizen, but he by no means held that the consequence of his being a citizen of the United States by virtue of his birth made him a citizen of any State of the United States. Let me read a sentence or two from his opinion. It will be found in the 19th of Howard. That part of the opinion to which it refers is on page 597 and others. After having stated, and no doubt having stated correctly, that at the time of the adoption of the Constitution of the United States there were five States in which persons of color were entitled to the right of suffrage, and in which, therefore, they participated in the deliberations of the States by which the Convention was authorized, and afterward in the conventions of the several States by which the Constitution itself was sanctioned, he came to this conclusion. He says: "My opinion is, that under the Constitution of the United States every free person born on the soil of a State, who is a citizen of that State by force of its constitution or laws, is a citizen of the United States." Now, mark the qualification. It is not the nativity that imparts the character of citizen or alien; there must be added to the fact of nativity the other fact that at the time of his birth he is by the Constitution or laws of the State a citizen of that State; and the two things added, birth and citizenship, by the laws of the State he became by virtue of the two a citizen of the United States. If there could be any doubt that I correctly interpret that part of the opinion, it would be speedily removed by subsequent portions of the opinion, to which I will call the attention of the Senate. He says the first section of the second article of the Constitution uses the language, a natural born citizen. It thus assumes that citizenship may be acquired by birth. He then goes on to state that the Constitution, having recognized the rule that persons born within the several States are citizens of the United States, one of four things must be true. Now, what are they? I will read, first, that the Constitution itself has described what persons shall or shall not be citizens of the United States. Next, that it is referred to each State to determine what free persons, born within its limits, shall be citizens of such State, and thereby be citizens of the United States. I shall not read everything he says in relation to three of the alternatives, but only a portion of it. He says if there be such a thing as citizenship of the United States acquired by birth within the States which the Constitution expressly recognizes and no one denies, then these four alternatives embrace the entire subject, and it only remains to select the one which is true, that the Constitution itself has defined citizenship of the United States by declaring what person born within the several States, shall or shall not be citizens of the United States. It contains no such declaration. He may dismiss the first alternative as without doubt unfounded, that is to say, the Constitution has not stated, or to use the language of his opinion, the Constitution has not described what native-born persons shall or shall not be citizens; the propositions, to use his own language, may be dismissed as a proposition wholly unfounded. Well if that is not true, then is the other true, if the Constitution does not of itself declare who are to be citizens of the United States? Is there anything in the Constitution which confers upon Congress the power to do the same thing? Let us see what Justice Curtis says about that. "Has it empowered Congress to enact what free-born persons, born within the several States, shall or shall not be citizens of the United States? If such power exists, then the Constitution has empowered Congress to create privileged classes within the States, who alone shall be entitled to the franchise and privileges of citizenship. If it be true that the Constitution has enabled Congress to declare what free persons, born within the several States, shall be citizens of the United States, it must at the same time be admitted that it is an unlimited power. If this subject is within the jurisdiction of Congress it must depend wholly on its discretion." Then he proceeds, immediately afterward, in very clear and forcible language, to say that the Constitution confers no such power upon Congress. Now I will read a part of what he says:

"Among the powers expressly granted to Congress, is the power to prescribe a uniform rule of naturalization. It is not doubted that this is a power to prescribe a rule for the removal of disabilities consequent upon foreign birth. It appears, then, that the only power granted to Congress to legislate concerning citizenship, is confined to the removal of its disabilities of foreign birth."

Now, leaving the inquiry whether there is in the Constitution any express authority conferred upon Congress to legislate at all in relation to the statute of citizenship, he proceeds to inquire whether there exists any implied power to establish it. He says: "Whether there be anything in the Constitution from which the power may be implied, will best be seen when we come to examine the two other alternatives, which are whether all free persons born on the soil in several States, or such of them as may be citizens of States respectively, are thereby citizens of the United States. He says the last of these alternatives is in my judgment the true one—that is to say, there is no power expressed or implied which confers upon Congress any authority at all to declare what free persons are to be considered as citizens because of their birth within the State, except such as, by virtue of their birth under the Constitution and laws of the State of their birth, became citizens of the United States, and he says that alone contains the truth undoubtedly. As has been said, it is a principle of public law recognized by the Constitution itself, that birth on the soil of a country both creates the duties and confers the right of citizenship. That is the doctrine relied upon by my friend from Illinois (Mr. Trumbull). It must be remembered that though the Constitution was the designed form of the United States of America—a government to which loyalty and obedience from the citizens was to be given in return for protection and privileges—yet the several sovereign States, whose people were their citizens, were not only to continue in existence, but with powers unimpaired except so far as they were granted to the National Government; and among the powers reserved to the States was that of determining what persons should not be citizens. Having come to the conclusion that that power was not delegated to the States, the other conclusion is consequent upon that, that it remains as it stood before, a power exclusively belonging to the States respectively. Now, Mr President, what is the consequence of that doctrine, if it be true? And I think I may challenge my friend from Illinois to disprove it. The authority before citizenship under the Constitution of the United States is not delegated to Congress, except in one particular instance, and that not one which was intended to make the party in whose favor the powers might be exercised a citizen of the United States, merely for the purpose of removing the disabilities which a law of Congress can remove, consequent upon his foreign birth and foreign allegiance. That was a question in which the whole were interested. It was a matter of general moment. It related to a common object for which the Constitution itself was adopted, and in which foreign nations were concerned. Because no one State had the power to legislate upon any subject upon which a foreign citizen might be concerned, it was deemed advisable to invest a power, which might otherwise create difficulties and injury to the whole, in a Government to which the interests and safety of the whole is committed. But the removal of disabilities under the naturalization laws did not create a citizen of any one State. That power, in the words of Justice Curtis, remained as it stood before the Constitution was adopted, exclusively belonging to the States themselves. Now, what does this bill propose to do? It says that every man born in the United States, whether born as a slave or not (it is not confined in its operation to those born subsequent to the abolition of Slavery in the United States, but applies to all, to whoever was born at any time, though born in Slavery), is to be considered a citizen by reason of the fact of his being born here, and that fact alone the State may have declared at the time of his birth if he was born of a slave mother, that he was a slave. The Constitution and laws of the State which declared it are disputed. We assert that no descendant of a colored mother, whether she was free or not, shall be a citizen by virtue of his birth, and yet my friend from Illinois and the Congress of the United States, in passing this bill, have declared that those who are born in a State of slavery, and who were never citizens as long as that condition existed, who were prevented from being citizens by the Constitution of the State in which they resided, which has never been changed, shall, by force of this enactment, be considered as citizens of the United States, and, therefore, citizens for all purposes. Now, if it be true that whether birth is to give citizenship of the United States depends upon the fact whether the party born is by the laws of the State in which he is born a citizen of that State, I should like to know where is the authority of Congress to interfere over what a State has done in the past, is doing in the present, or may do in the future? or now it can be accomplished under the Constitutional Amendment (which I will notice after awhile)? Now, the Honorable member from Illinois (Mr. Trumbull) disposes of the President's objections to the first section of the bill by saying it is merely declaratory. Well, I know it is not uncommon for a legislative body whose differences of opinion exist in relation to any proposition, to remove by declaratory legislation. But that is not the purpose of this section. It professes to be passed in the exercise of a positive and absolute power to change law, not to delare what the law was. The power to make a law it assumes, or otherwise there would be no occasion for it, that birth alone does not confer citizenship, and, assuming that no citizenship could exist in consequence of birth alone, it declares that birth alone, in spite of State constitutions and State laws, shall confer citizenship. Now with all deference to the opinion of the honorable Chairman of the Committee of the Judiciary (Mr. Trumbull), it seems to me to be a proposition as clearly erroneous as any proposition can be in relation to the Constitution. States were sovereign before the Constitution was adopted, and the Constitution, not only according to its very terms does not profess to confer upon the Government of the United States any such power, but, as far as Congress is concerned, professes only to confer on that department of the Government a particular delegated power; and so conscious were the framers of that instrument, and the great men of that day to whom its subsequent perfection was left, that although they had no doubt on the subject, and although the debates in the Convention itself, as well as the debates in the conventions of the several States when the adoption of the Constitution was before them, notwithstanding they all went upon the theory that no powers were conferred except such as were expressly granted, or such as might reasonably be implied to carry out the powers expressly granted—so serious were they that, not satisfied with relying upon a principle that only delegated power belonged to Congress, they, by the 10th amendment to the Constitution, declared that the powers not delegated by the Constitution and not denied to the States, were to be considered as reserved to the States respectively, or to the people. Standing, therefore, as well upon the nature of the Government itself as a government of enumerated powers specially delegated; standing upon the express provision that everything not granted was to be considered as remaining within the States, unless the Constitution contained some particular prohibition of any power, what doubt can there be that if the States possessed the power to declare who might be their citizens before the Constitution was adopted, that power remains now as applicable and as conclusive as it was before the Constitution was adopted? and the bill, therefore, proposes to change the whole theory of the Government. The President, therefore, as I think, is right in saying—and I go further than he does—he is right in expressing a doubt whether Congress has the right or the power. And I affirm, with all deference to the better judgment of the Senators who voted for this bill and the honorable Chairman of the Judiciary Committee, that it is perfectly clear that no such power exists as is attempted to be exercised by the first section. I hold with Mr. Justice Custis (and his opinion has never been questioned) that citizenship of the United States, consequent upon birth in a State, is to depend upon the fact whether the Constitution and laws of the State make the party so born a citizen of the State. Now, what is the next section? or what is the remaining provision of the first section? Not satisfied with declaring or assuming that they had the power to declare that all persons not subjects of any foreign power, born in the United States, are to be considered hereafter as citizens of the United States, and having the right of such persons to depend upon the fact of their being citizens, the bill goes on to provide what right shall belong to them. Now, what is that for? Is that declaratory too? "Citizenship," says the honorable member (Mr. Trumbull), "carries with it certain rights." What rights? He read to the Senate from the first of Kent, page 46, a passage which he will pardon me for saying has nothing in the world to do with the particular question before us. The passage which he read merely stated that every nation was bound to protect its own citizens. Why certainly it is, if it has the power. The Government of the United States has the authority, and is bound to protect the rights of every citizen of the United States invaded by any other nation. Why? Because the States have no jurisdiction—extra territorial. Because with reference to foreign nations the States have no place at all. That relation subsists and can only subsist as between foreign nations and the General Government; and because that relation can only in that way subsist it is the duty of the United States, as it is the duty of every foreign nation, to protect its own citizens. But how is that made to prove that a citizen of the United States, who is entitled to the same protection of the Government of the United States, is to be considered a citizen of any one State? What are these rights? The bill converts him into a citizen by virtue of his birth, which I have endeavored to show the Senate could not be done unless the Constitution of the State where he is born has made him a citizen of that State, and it goes on further and says that such citizens that are citizens by force of this Congressional legislation, of every race and color, without regard to previous condition of Slavery, etc., shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, sell, hold and convey real and personal property, and to the full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white persons. Now, Mr. President, if there be anything that might be considered as true in the Constitution and laws, it was that over every one of these rights, or, to speak more correctly, over every one of the subjects to which these rights are made to attach, the jurisdiction of the States were exclusive. The honorable gentleman from Illinois (Mr. Trumbull) seems to forget, as I think, what is the real character of our Government and our institutions. This bill, in my opinion, strikes at all the reserved rights of the States. You may look in the statute-books, and I am sure the honorable member from Illinois will agree that such is the fact. You may look in the statute books of the United States in vain for the purpose of finding that at any time from 1789 up to the breaking out of this Rebellion anybody ever proposed in Congress by legislation to regulate by securing or otherwise the rights which are referred to in this section. After dwelling further upon this section, Mr. Johnson passed to the provisions of the bill which define the punishment for the enforcement of distinction on account of color by State Judges and others. It would abolish all State laws, he said. And what is the case in which, by this clause, jurisdiction is vested in the courts of the United States? "In all cases, civil or criminal, affecting persons who are denied their rights in a State court," any such person against whom a suit may be brought for any cause whatever, may appeal to the United States courts. Any of these agents or sub-agents—for there are hosts of them provided for by the bill—who may kill a freeman who is endeavoring to protect what he considers his rights, is not to be tried in a State Court but in an United States Court. Here the bill goes upon the theory that there is but one government. Murder, robbery and many other offenses which no one ever dreamt of trying in any but a State court, are to be transferred to the United States courts. The honorable member refers to the act of 1790, which has nothing at all to do with this. The punishment provided for by that act related to suits and offenses against the Foreign Ministers who were accredited to the Government; and an offense against them was an offense against the Government. That law was based upon the same principle as that on which we provide for the punishment of those who utter false coins, &c. It is incidental entirely. It is a part of the law of nations and not derived from any municipal power whatever. My honorable friend asks whose fault is it that eleven States are not represented here. He certainly does not ask this in an *ad capitandum* style as he animadverted upon that in referring to the President. He says their hands are reeking with the blood of their fathers. What have they done? They have abolished Slavery. Some of them have even gone further, than the honorable member himself, and though some of them have fought in the field of battle, they can take that oath as conscientiously as the honorable member or myself. Congressional legislation is necessary, it is said. Well, they applied here in the month of December, and it is now April, and it may be until July or December, as rumor has it. I can go into the State of the honorable member himself and find hundreds of men just as disloyal as any in those States. That is, disloyal in the modern acceptation of the term. A short time ago it was disloyal to oppose the President; now it is disloyal to support him. It is only loyal to uphold Congressmen. The Supreme Court has recognized these States as being in the Union; it has for weeks been trying cases from them. It is apprehended that mischief will result if they are admitted here. Mischief of what kind? Of a party character? That is the only mischief that I am aware of that can exist. Where is the occasion of this fire? Does any one suppose that the rights of the black man are not as safe in these States as in any of the loyal States? Go into Missouri, the State of my friend on my right (Mr. Henderson). What do you find there? That men cannot pray in public without taking an oath! Where ministers are taken out of the pulpit! Certainly that is an invasion of private rights, and I invite my friend to draft a bill to protect the citizens of Missouri from murder and robberies. Brutal atrocities and unheard of crimes are constantly occurring in the loyal States of the East, but my friend does not think it necessary to interfere with the authority of Congress there. I have by one word more, Mr. President; my friend asserts in rather severe terms to the President. The President stated that, in his opinion, the bill is unconstitutional, and, thinking so, it was his duty to interpose his objections. If he had not done so he would have been false to his plighted faith. As to any suspicion of disloyalty against him, his whole political course disproves that. In 1861 I was here, but not a member of the Senate; and I heard him standing in the midst of those who were plotting to destroy the Union, and, in words that burned, denounce their attempts at rebellion.

Mr. NYE—Will the Senator allow me to ask him a question?

Mr. JOHNSON—Certainly.

Mr. NYE—Did he not at the same time admit the right of secession.

Mr. JOHNSON—Certainly not. Quite the reverse. The most prominent public man who advocated it was the late lamented President Lincoln in a speech in 1847.

Mr. NYE—Mr. Stephens certainly did advocate it.

Mr. JOHNSON—I am not speaking of Mr. Stephens, but of the late President of the United States. My friend from Nevada is not often wrong; but he has certainly made a mistake this time. The President of his own State of Tennessee again perilled his life in defence of the Union. He wants it restored, and should we not come together once more and glory in the heroic deeds of each other?

Mr. TRUMBULL—Mr. President, I did not hear perfectly the opening remarks of the Senator. I understood him to say that all persons born in the United States were not citizens.

Mr. JOHNSON—I maintain the opinion of Judge Curtiss.

Mr. TRUMBULL—That was the opinion of a dissenting Judge. But, Mr. President, I have the opinion of another gentleman, one who stands at the head of the bar of America at the present time. I read from a speech delivered less than 90 days ago, from the speech of no less a person than the Senator from Maryland, Mr. Johnson. Mr. Trumbull then read from the speech in question that all free-born colored persons were citizens, and since Slavery was abolished, that all colored persons were citizens, and to establish the fact without dispute, it was necessary for some legislation by Congress. Mr. Trumbull referred to the act of 1790, alluded to by him yesterday. The Senator claimed that that act only provided for punishment of a violation of international law, and he would ask was a right secured by the Constitution less sacred than one secured by international law? Mr. S. claimed that the act was a complete precedent for the second section of the bill under consideration.

Mr. JOHNSON said he was rather surprised that a gentleman so clear-headed as the Senator should have fallen into the mistake of supposing that there was any inconsistency in the speech referred to and the position just assumed by him. He certainly did hold that all persons born here were citizens of the United States; but this did not entitle them to the privileges of citizenship in the State in which they were born. Over the question of State citizenship the States held complete sovereignty, and it was not in the power of Congress to confer the right of State citizenship on citizens of the United States. This bill assumed such a right.

Mr. YATES said that under the Slavery amendment he entertained the opinion that freedmen were entitled to the same rights and privileges as any other citizens of the United States. The authorities quoted by the Senator from Maryland only held before the adoption of the Slavery amendment. The Senator from Maryland had offered an amendment to the Freedmen's Bureau bill which recognized his (Mr. Y.'s) position as the correct one.

Mr. TRUMBULL said the speech of the Senator from which he had just read was delivered on this very bill. That Senator, with 30 others, had voted for an amendment declaring all persons citizens, excepting Indians, not taxed, but in his speech the Senator went further than this. Further extracts were then read by Mr. Trumbull.

Mr. COWAN said it was well known to members of the Senate that there are gentlemen who desire to vote against this bill, but who are in a delicate state of health, and common humanity requires that some hour should be set apart at which those gentlemen can be present and cast their votes. I understand the Chairman of the Committee expresses his intention of pressing a vote to-night. I do not wish to make any factious opposition, and I therefore ask the gentlemen on the other side to state some hour when the vote may be taken. I will move to take a vote at 5 o'clock.

Mr. TRUMBULL said he was ready to take a vote now. He had never heard of such a motion being made before.

Mr. COWAN said he was not at all obliged to the Senator. He tells us that he is ready to take a vote now. We are not, and if the majority do not intend to act in such a spirit as the civilization of the age demands, we can debate it until we are ready. I shall insist upon any motion if it is in order.

Mr. MCDOUGALL said he did not think it was in order. He did not think it proper to establish a rule, as he might rise in his seat and debate the bill and violate courtesy, as did the Senator from Massachusetts (Mr. Sumner) some days ago. He had intended to make some remarks on this bill. He would suggest that for the sake of humanity its further consideration be postponed until to-morrow, with the understanding that a vote be taken at 4 o'clock.

Mr. COWAN said, as it seemed that no arrangement could be made, he proposed to say a few words. He looked upon the question as purely a legal one. This bill was a very dangerous one. But it could not effect all the purposes which its friends desired. The rights conferred by the first section of the bill are without reservation or restriction. It does not confer rights as upon white citizens, but confers them absolutely. They have the right to make and enforce contracts. In some of the States a married woman has not the right to make a contract, and in all of them her right is limited. Now I ask Senators who have the care of States, whether they wish to put it in the power of the District Courts to set aside all State laws in regard to contracts? This bill confers upon married women, upon minors, upon idiots, upon lunatics, upon any one born here, the right to make contracts, and there is no power in the State Courts to prohibit it. The power granted is absolute. Now in many of the States certain contracts are prohibited, some for reasons of policy, some for reasons of morality, and for different reasons. In my State (Penn) a contract made on Sabbath day is not valid, but this bill steps in and enforces it. Now, Mr. President, I wish to show the manner in which bills are