

called will be excluded; the members of the Thirty-Sixth Congress who in any manner aided this rebellion will be excluded; all persons who were educated at the national academies, naval or military, who have been endowed by the people with the power of knowledge, a gift next in value to the gift of the understanding with which the breath of the Almighty has given them, are excluded; the persons who represented this confederacy of treason and crime in any part of the habitable globe are excluded; and above all and beyond all, all persons who in any manner subjected to untimely death by exposure or neglect or the slow torture of famine or poison the captive defenders of the Union, are forever excluded.

The mere statement and concession of the people's right to exercise this power, which is undoubtedly the sovereign right of the American people, by a congressional act, ought to have suggested to the honorable gentleman from Massachusetts [Mr. BANKS] that if it is useful in this great work of reconstruction further to disfranchise the participants in this rebellion, it can be done in like manner by an act of Congress, and without a constitutional amendment.

The franchise of a Federal elective office is as clearly one of the privileges of a citizen of the United States as is the elective franchise for choosing Representatives in Congress or presidential electors. They are both provided for and guaranteed in your Constitution. Why, then, prohibit rebels from the enjoyment of the first for life by an act of Congress and restrict the second for a term of years by a constitutional amendment? To be sure we all agree, and the great body of the people of this country agree, and the committee thus far in reporting measures of reconstruction agree, that the exercise of the elective franchise, though it be one of the privileges of a citizen of the Republic, is exclusively under the control of the States. But, sir, the committee never intimated and never intended to intimate by any measure they have reported that any State lately in insurrection can exercise either that power or any other until it is restored to its constitutional relation to the Union save by the express or implied consent of the Congress of the United States, nor that after being restored they can exercise that power contrary to the express conditions prescribed by Congress for their restoration. The power to prescribe these conditions is exclusively in Congress.

That is the philosophy of every measure of reconstruction now pending before the House. And that is wherein it is opposed to the opinions of gentlemen on the other side of the House who have spoken, I am sorry to say—and I say it without the slightest intention of giving offense to any man—not in the spirit of representatives of the people, but in the spirit of partisans. For myself, I cannot approach the discussion of this great question, which concerns the safety of all, in the spirit of a partisan. God forbid that I should approach this subject in any other character than that of a representative of the people—a representative of the people not unmindful of the oath which I took, sir, before your tribune.

Mr. WRIGHT. I rise to a question of order. The gentleman, by reflection, seems to infer that we do not represent the people, and that we are unmindful of our oaths.

The SPEAKER. That is not a point of order under parliamentary law, but an interruption without the consent of the member speaking.

Mr. BINGHAM. The want of the Republic to-day is not a Democratic party, is not a Republican party, is not any party save a party for the Union, for the Constitution, for the supremacy of the laws, for the restoration of all the States to their political rights and powers under such irrevocable guarantees as will forevermore secure the safety of the Republic, the equality of the States, and the equal rights of all the people under the sanctions of inviolable law.

I trust, Mr. Speaker, that after the roll shall have been called this day, and the departing sun shall have gilded with its last rays the dome of the Capitol, it will not be recorded by the pen of the historian that the sad hour had come to this great Republic which, in the day of its approaching dissolution, came to the republic of ancient Rome, when it was said Cæsar had his party, Antony had his party, Brutus had his party, but the Commonwealth had none!

I speak to-day, Mr. Speaker, to the party that is for the Republic; to the party that is for the Constitution; to the party that is for the speedy restoration to their constitutional relations of the late insurrectionary States, under such perpetual guarantees as will guard the future of the Republic by the united voice of a united people against the sad calamities which have in these late years befallen it.

Mr. Speaker, the final settlement of this grave question which touches the nation's life is at last with the people of the loyal States—the loyal people of the Union. To the end, therefore, knowing, as the committee did know, that parties must dissolve, that men must perish from the earth, but that the Commonwealth is for all time, if its laws be just and its people be faithful, they propose to the several States a perpetual covenant in the form of a constitutional amendment, never to be broken so long as the people adhere to their cherished forms of government, which, when ratified, will secure the safety of all and the rights of each, not only during the present generation, but throughout all generations, until this grand example of free government shall itself be forgotten. The amendment reported by the committee is as follows:

ARTICLE.—

SEC. 1. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever, in any State, the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age.

SEC. 3. Until the 4th day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States.

SEC. 4. Neither the United States nor any State shall assume or pay any debt or obligation already incurred, or which may hereafter be incurred, in aid of insurrection or of war against the United States, or any claim for compensation for loss of involuntary service or labor.

SEC. 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

The necessity for the first section of this amendment to the Constitution, Mr. Speaker, is one of the lessons that have been taught to your committee and taught to all the people of this country by the history of the past four years of terrific conflict—that history in which God is, and in which He teaches the profoundest lessons to men and nations. There was a want hitherto, and there remains a want now, in the Constitution of our country, which the proposed amendment will supply. What is that? It is the power in the people, the whole people of the United States, by express authority of the Constitution to do that by congressional enactment which hitherto they have not had the power to do, and have never even attempted to do; that is, to protect by national law the privileges and immunities of all the citizens of the Republic and the inborn rights of every person within its jurisdiction whenever the same shall be abridged or denied by the unconstitutional acts of any State.

Allow me, Mr. Speaker, in passing, to say that this amendment takes from no State any right that ever pertained to it. No State ever had the right, under the forms of law or otherwise, to deny to any freeman the equal pro-

tection of the laws or to abridge the privileges or immunities of any citizen of the Republic, although many of them have assumed and exercised the power, and that without remedy. The amendment does not give, as the second section shows, the power to Congress of regulating suffrage in the several States.

The second section excludes the conclusion that by the first section suffrage is subjected to congressional law; save, indeed, with this exception, that as the right in the people of each State to a republican government and to choose their Representatives in Congress is of the guarantees of the Constitution, by this amendment a remedy might be given directly for a case supposed by Madison, where treason might change a State government from a republican to a despotic government, and thereby deny suffrage to the people. Why should any American citizen object to that? But, sir, it has been suggested, not here, but elsewhere, if this section does not confer suffrage the need of it is not perceived. To all such I beg leave again to say, that many instances of State injustice and oppression have already occurred in the State legislation of this Union, of flagrant violations of the guaranteed privileges of citizens of the United States, for which the national Government furnished and could furnish by law no remedy whatever. Contrary to the express letter of your Constitution, "cruel and unusual punishments" have been inflicted under State laws within this Union upon citizens, not only for crimes committed, but for sacred duty done, for which and against which the Government of the United States had provided no remedy and could provide none.

Sir, the words of the Constitution that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States" include, among other privileges, the right to bear true allegiance to the Constitution and laws of the United States, and to be protected in life, liberty, and property. Next, sir, to the allegiance which we all owe to God our Creator, is the allegiance which we owe to our common country.

The time was in our history, thirty-three years ago, when, in the State of South Carolina, by solemn ordinance adopted in a convention held under the authority of State law, it was ordained, as a part of the fundamental law of that State, that the citizens of South Carolina, being citizens of the United States as well, should abjure their allegiance to every other government or authority than that of the State of South Carolina.

That ordinance contained these words:

"The allegiance of the citizens of this State is due to the State; and no allegiance is due from them to any other Power or authority; and the General Assembly of said State is hereby empowered from time to time, when they may deem it proper, to provide for the administration to the citizens and officers of the State, or such of the said officers as they may think fit, of suitable oaths or affirmations, binding them to the observance of such allegiance, and abjuring all other allegiance; and also to define what shall amount to a violation of their allegiance, and to provide the proper punishment for such violation."

There was also, as gentlemen know, an attempt made at the same time by that State to nullify the revenue laws of the United States. What was the legislation of Congress in that day to meet this usurpation of authority by that State, violative alike of the rights of the national Government and of the rights of the citizen?

In that hour of danger and trial to the country there was as able a body of men in this Capitol as was ever convened in Washington, and of these were Webster, Clay, Benton, Silas Wright, John Quincy Adams, and Edward Livingston. They provided a remedy by law for the invasion of the rights of the Federal Government and for the protection of its officials and those assisting them in executing the revenue laws. (See 4 Statutes-at-Large, 632-33.) No remedy was provided to protect the citizen. Why was the act to provide for the collection of the revenue passed, and to protect all acting under it, and no protection given to secure the citizen against punishment for fidelity to