THE
"CLEARFIELD REPUBLICAN,"
PUBLISHED EVERY WEDNESDAY, BY
GOODLANDER & LEE,
CLEARFIELD, PA.
ESTABLISHED IN 1827.
The largest Circulation of any Newspaper in North Central Pennsylvania.
[illegible]
If paid after 3 and before 6 months 2 50
If paid after the expiration of 6 months... 3 00

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1 square	$8 00	¼ column	$50 00
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G. B. GOODLANDER,
NOEL B. LEE,
Publishers.

CLEARFIELD REPUBLICAN.

GEO. B. GOODLANDER, [illegible] PRINCIPLES, NOT MEN. TERMS—$2 per annum in Advance.

VOL. 51—WHOLE NO. 2,504. CLEARFIELD, PA., WEDNESDAY, JANUARY 17, 1877. NEW SERIES--VOL. 18, NO. 3.

Cards.

WM. M. McCULLOUGH, FRED. G'L. BUCK.
McCULLOUGH & BUCK,
ATTORNEYS-AT-LAW,
Clearfield, Pa.
All legal business promptly attended to. Office on Second street, in the Masonic building. jan10,'77

W. C. ARNOLD,
LAW & COLLECTION OFFICE,
CURWENSVILLE,
e26 Clearfield County, Penn'a. 75y

THOS. H. MURRAY. CYRUS GORDON.
MURRAY & GORDON,
ATTORNEYS AT LAW,
CLEARFIELD, PA.
Office in Pie's Opera House, second floor. 9:30'74

FRANK FIELDING,
ATTORNEY-AT-LAW,
Clearfield, Pa.
Will attend to all business entrusted to him promptly and faithfully. nov12'73

WILLIAM A. WALLACE. DAVID L. KREBS.
HARRY F. WALLACE. JOHN W. WRIGLEY.
WALLACE & KREBS,
(Successors to Wallace & Fielding,)
ATTORNEYS-AT-LAW,
11-12'73 Clearfield, Pa.

JOSEPH S. M'ENALLY. DANIEL W. M'CURDY.
McENALLY & McCURDY,
ATTORNEYS-AT-LAW,
Clearfield, Pa.
Legal business attended to promptly with fidelity. Office on Second street, above the First National Bank. jan1:76

G. R. BARRETT,
ATTORNEY AND COUNSELOR AT LAW,
CLEARFIELD, PA.
Having resigned his Judgeship, has resumed the practice of the law in his old office at Clearfield, Pa. Will attend the courts of Jefferson and Elk counties when specially retained in connection with resident counsel. 2:14:72

A. G. KRAMER,
ATTORNEY-AT-LAW,
Real Estate and Collection Agent,
CLEARFIELD, PA.,
Will promptly attend to all legal business entrusted to his care.
Office in Pie's Opera House. jan1'76.

WM. M. McCULLOUGH,
DISTRICT ATTORNEY,
Clearfield, Pa.
Office in the Masonic building. Legal business promptly attended to. Real estate bought and sold. jel1'73

A. W. WALTERS,
ATTORNEY AT LAW,
Clearfield, Pa.
Office in Graham's Row. [dec5-1y

H. W. SMITH,
ATTORNEY-AT-LAW,
11:1:73 Clearfield, Pa.

WALTER BARRETT,
ATTORNEY AT LAW,
Clearfield, Pa.
Office in Old Western Hotel building, corner of Second and Market Sts. [nov21,66.

ISRAEL TEST,
ATTORNEY AT LAW,
Clearfield, Pa.
Office in the Court House. [jy11,'67

JOHN H. FULFORD,
ATTORNEY AT LAW,
Clearfield, Pa.
Office on Market street, opp. Court House, Jan. 3, 1874.

JOHN L. CUTTLE,
ATTORNEY AT LAW,
And Real Estate Agent, Clearfield, Pa.
Office on Third street, bet. Cherry & Walnut.
Respectfully offers his services in selling and buying lands in Clearfield and adjoining counties; and with an experience of over twenty years as a surveyor, flatters himself that he can render satisfaction. [Feb 28,'63:tf,

J. BLAKE WALTERS,
REAL ESTATE BROKER,
AND DEALER IN
Saw Logs and Lumber,
CLEARFIELD, PA.
Office in Graham's Row. 1:25:71

J. J. LINGLE,
ATTORNEY-AT-LAW,
1:18 Osceola, Clearfield Co., Pa. y:pd

J. S. BARNHART,
ATTORNEY-AT-LAW,
Bellefonte, Pa.
Will practice in Clearfield and all of the Courts of the 25th Judicial district. Real estate business and collection of claims made specialties. n1'71

DR. W. A. MEANS,
PHYSICIAN & SURGEON,
LUTHERSBURG, PA.
Will attend professional calls promptly. aug10'70

DR. T. J. BOYER,
PHYSICIAN AND SURGEON,
Office on Market Street, Clearfield, Pa.
Office hours: 8 to 12 a. m., and 1 to 8 p. m.

DR. E. M. SCHEURER,
HOMŒOPATHIC PHYSICIAN,
Office in residence on Market st.
April 24, 1872. Clearfield, Pa.

J. H. KLINE, M. D.,
PHYSICIAN & SURGEON,
HAVING located at Pennfield, Pa., offers his professional services to the people of that place and surrounding country. All calls promptly attended to. oct. 13 tf.

DR. J. P. BURCHFIELD,
Late Surgeon of the 83d Regiment, Pennsylvania Volunteers, having returned from the Army, offers his professional services to the citizens of Clearfield county.
Professional calls promptly attended to. Office on Second street, formerly occupied by Dr. Woods. [apr4,'66-tf

DR. H. B. VAN VALZAH,
CLEARFIELD, PENN'A.
OFFICE IN MASONIC BUILDING.
Office hours—From 12 to 2 P. M.
May 12, 1875.

DR. JEFFERSON LITZ,
WOODLAND, PA.
Will promptly attend all calls in the line of his profession. nov.19-73

D. M. DOHERTY,
FASHIONABLE BARBER & HAIR DRESSER.
CLEARFIELD, PA.
Shop in room formerly occupied by Naugle Market street.
July 14, '76.

HARRY SNYDER,
(Formerly with Lew Schuler.)
BARBER AND HAIRDRESSER.
Shop on Market St., opposite Court House. A clean towel for every customer. may 19,'75.

Livery Stable.
THE undersigned begs leave to inform the public that he is now fully prepared to accommodate all in the way of furnishing Horses, Buggies, Saddles and Harness, on the shortest notice and on reasonable terms. Residence on Locust street, between Third and Fourth.
GEO. W. GEARHART.
Clearfield, Feb. 4, 1874.

Cards.

JOHN D. THOMPSON,
Justice of the Peace and Scrivener,
Curwensville, Pa.
Collections made and money promptly paid over. feb22'71tf

RICHARD HUGHES,
JUSTICE OF THE PEACE
—FOR—
Decatur Township,
Osceola Mills P. O.
All official business entrusted to him will be promptly attended to. mch29, '76.

GEO. ALBERT......HENRY ALBERT.........W. ALBERT
W. ALBERT & BROS.,
Manufacturers & extensive Dealers in
Sawed Lumber, Square Timber, &c.,
WOODLAND, PENN'A.
Orders solicited. Bills filled on short notice and reasonable terms.
Address Woodland P. O., Clearfield Co., Pa.
e25-1y W. ALBERT & BROS.

FRANCIS COUTRIET,
MERCHANT,
Frenchville, Clearfield County, Pa.
Keeps constantly on hand a full assortment of Dry Goods, Hardware, Groceries, and everything usually kept in a retail store, which will be sold, for cash, as cheap as elsewhere in the county.
Frenchville, June 27, 1867-1y.

THOMAS H. FORCEE,
DEALER IN
GENERAL MERCHANDISE,
GRAHAMTON, Pa.
Also, extensive manufacturer and dealer in Square Timber and Sawed Lumber of all kinds.
Orders solicited and all bills promptly filled. [jy18'72

REUBEN HACKMAN,
House and Sign Painter and Paper Hanger,
Clearfield, Penn'a.
Will execute jobs in his line promptly and in a workmanlike manner. apr4,67

G. H. HALL,
PRACTICAL PUMP MAKER,
NEAR CLEARFIELD, PENN'A.
Pumps always on hand and made to order on short notice. Pipes bored on reasonable terms. All work warranted to render satisfaction, and delivered if desired. my25:1ypd

E. A. BIGLER & CO.,
DEALERS IN
SQUARE TIMBER,
and manufacturers of
ALL KINDS OF SAWED LUMBER,
8-7'72 CLEARFIELD, PENN'A.

JAS. B. GRAHAM,
dealer in
Real Estate, Square Timber, Boards,
SHINGLES, LATH, & PICKETS,
9:10'73 Clearfield, Pa.

WILLIAM M. HENRY, JUSTICE OF THE PEACE AND SCRIVENER, LUMBER CITY. Collections made and money promptly paid over. Articles of agreement and deeds of conveyance neatly executed and warranted correct or no charge. 24jy'73

JAMES MITCHELL,
DEALER IN
Square Timber & Timber Lands,
jel1'73 CLEARFIELD, PA.

JAMES H. LYTLE,
In Kratzer's Building, Clearfield, Pa.
Dealer in Groceries, Provisions, Vegetables, Fruits, Flour, Feed, etc., etc.
april4'75-tf

WARREN THORN,
BOOT AND SHOE MAKER,
Market St., Clearfield, Pa.
In the shop lately occupied by Frank Short, one door west of Alleghany House.

JOHN A. STADLER,
BAKER, Market St., Clearfield, Pa.
Fresh Bread, Rusk, Rolls, Pies and Cakes on hand or made to order. A general assortment of Confectionaries, Fruits and Nuts in stock.—Ice Cream and Oysters in season. Saloon nearly opposite the Postoffice. Prices moderate.
March 10-'75.

J. R. M'MURRAY
WILL SUPPLY YOU WITH ANY ARTICLE OF MERCHANDISE AT THE VERY LOWEST PRICE. COME AND SEE. (3:5:73y)
NEW WASHINGTON.

MARBLE AND STONE YARD.
Mrs. S. S. LIDDELL,
Having engaged in the Marble business, desires to inform her friends and the public that she has now and will keep constantly on hand a large and well selected stock of ITALIAN AND VERMONT MARBLE, and is prepared to furnish to order TOMBSTONES, BOX AND CRADLE TOMBS, MONUMENTS, &c.
Yard on Reed street, near the R. R. Depot, Clearfield, Pa. je14,70

S. I. SNYDER,
PRACTICAL WATCHMAKER
AND DEALER IN
Watches, Clocks and Jewelry,
Graham's Row, Market Street,
CLEARFIELD, PA.
All kinds of repairing in my line promptly attended to. April 23, 1874.

WHOLESALE LIQUOR STORE.
At the end of the new bridge,
WEST CLEARFIELD, PA.
The proprietor of this establishment will buy his liquors direct from distillers. Parties buying from this house will be sure to get a pure article at a small margin above cost. Hotel keepers can be furnished with liquors on reasonable terms. Pure wines and brandies direct from Seeley's Vinery, at Bath, New York.
GEORGE N. COLBURN.
Clearfield, June 16, 1875-tf.

MITCHELL WAGONS.
The Best is the Cheapest!
Thomas Reilly has received another large lot of "Mitchell Wagons," which are among the very best manufactured, and which he will sell at the most reasonable rates. His stock includes almost all descriptions of wagons—large and small, wide and narrow track. Call and see them.
apr8'74 THOMAS REILLY.

ANDREW HARWICK,
Market Street, Clearfield, Pa.,
MANUFACTURER AND DEALER IN
HARNESS, SADDLES, BRIDLES, COLLARS,
and all kinds of
HORSE FURNISHING GOODS.
A full stock of Saddlers' Hardware, Brushes, Combs, Blankets, Robes, etc., always on hand and for sale at the lowest cash prices. All kinds of repairing promptly attended to.
All kinds of hides taken in exchange for harness and repairing. All kinds of harness leather kept on hand, and for sale at a small profit.
Clearfield, Jan. 19, 1876.

UNDERTAKING.
The undersigned are now fully prepared to carry on the business of
UNDERTAKING,
AT REASONABLE RATES,
And respectfully solicit the patronage of those needing such services.
JOHN TROUTMAN,
JAMES L. LEAVY.
Clearfield, Pa., Feb. 16, 1874.

JUSTICES' & CONSTABLES' FEE BILL. We have printed a large number of the new FEE BILL, and will on the receipt of twenty-five cents, mail a copy to any address. my8

THE ELECTORAL COUNT.

—SPEECH OF—

HON. WM. A. WALLACE.

Delivered in the United States Senate, January 8th, 1877.

Mr. Wallace. I offer a resolution, which I ask to have read.

Resolved, That the special committee on counting the electoral vote be instructed to inquire and report to the Senate upon the following propositions:

1. Electors of President of the United States are a part of the machinery of the Federal Government.

2. The power to appoint them is in the States, to be exercised under the restrictions and guaranties of the Federal Constitution.

3. The power to ascertain who has been elected President and Vice President of the United States by counting the electoral vote is a quasi-judicial one, and carries with it the right to inquire and decide what are votes.

4. This power is in the two Houses acting concurrently as independent bodies.

5. Each House may examine both facts and law to enable it to determine these questions:

1. Are the returns of the electoral colleges before them the true returns?

2. Were the votes therein shown to be cast given by those appointed by the State to the office of elector of President of the United States?

3. Was the appointment of electors made and were the votes cast in accordance with the provisions and guarantees of the Federal Constitution?

6. The certificate and seal of the executive authority of the State made under the act of Congress is *prima facie* proof of the appointment of an elector by the State. This mode of proof may be overthrown by the decision of the highest judicial tribunal of the proper State or of the United States, or it may be contradicted by evidence of plain mistake or palpable fraud.

7. When two returns come from a State the two Houses acting concurrently must determine which is the true return.

8. No electoral vote can be counted without the concurrence of both Houses.

Mr. Wallace. Mr. President, these resolutions embody what I believe to be the law controlling the counting of the electoral vote. To ascertain what the Constitution, laws, and precedents establish upon this subject is my sole object in presenting them and in endeavoring to elicit discussion thereon. When we shall have settled this, our path of duty is a plain one. Law and justice must control and direct our votes. That a safe path may be found in accordance with these, I do not doubt. When it is found, partisan bias and personal ambition must give way before the high duty of obedience to law.

I shall not attempt now to elaborate all of the propositions I have made. My desire is to get the thoughts in concise form and to group around them the arguments in their favor.

That electors for President of the United States are a part of the machinery of the Federal Government needs no proof. They came into existence with it and their functions relate solely to its perpetuation.

The power to appoint them is given to the States by the Constitution, and the manner of their appointment is left to the control of the Legislatures of the States. That this power and control can be exercised so as to conflict with the provisions of the Federal Constitution will scarcely be contended. That instrument is the supreme law, and in this matter as in all else in which it may conflict with State authority it is the weightier. Of the restrictions imposed by the Constitution upon the States and the electoral colleges the familiar one they cannot vote for an alien for President is sufficient here. Of the guarantees it is sufficient to name that which gives to each State electors equal to the whole number of Senators and Representatives to which she may be entitled, so that while in the House of Representatives and upon the popular vote Rhode Island and Delaware each stand to Pennsylvania in the proportion of 1 to 27, in the electoral colleges they stand to the proportion of 3 to 29. That the number of votes in the colleges shall be as fixed by article 2, section 1, clause 2, is guaranteed by this provision, and the States can lawfully appoint no more.

In the third proposition, which is that "the power to ascertain the popular will by counting the electoral vote is a quasi-judicial one and carries with it by necessary implication the right to inquire and decide what are votes," I come in conflict with the views expressed by the Senator from Iowa [Judge Wright] in his speech of the 4th instant. He said:

> Under no construction, as it seem to me, can it be claimed that Congress in any capacity (certainly not in the absence of legislation) has judicial powers or any other power than to inquire and declare what the people, through their electors, on the face of the returns have said as to their choice for President. In saying this I do not lose sight of the different theories as to how this result is to be reached and who is to declare it. I am sufficiently understood for my present purpose, I hope, when I repeat that, in the absence of some law, there is no power to investigate and determine whether there was fraud in this State or that; whether the State law was wise or unwise in providing for the organization of its returning boards; whether a hundred men or a thousand there would have voted differently but for intimidation, corruption, violence, or fraud; whether the returning or canvassing board or tribunal in the State reached the true result from all the facts before them, or the like. For, whatever any one may think as to any of the other powers of the presiding officer or of the two Houses acting separately or together, the law, as gathered from the almost, if not quite, unbroken precedents from the very foundation of the Government, would clearly seem to teach that our powers are purely ministerial, not at all judicial.

If I correctly understand the doctrines here asserted, they are, first, that no power exists in Congress to determine "in counting the vote" whether the State in its action has violated the Constitution of the United States; second, that Congress in executing its power to count the vote has no judicial or quasi-judicial power, but that this is a power purely ministerial, and that by reason thereof Congress can neither act upon any authority necessarily implied from the principal power expressly given, nor reject any return for palpable fraud or plain mistake. Are these doctrines sound? The tribunal (whatever it may be) which counts the electoral vote must, from the very character of its duties, inquire and judge of alleged infractions of the Federal Constitution. Suppose that in the joint meeting a Senator objects that the vote of a State cannot be counted for a candidate for President either because he was not a "natural-born citizen" or because he was not thirty-five years of age, or because he had not been a resident within the United States for fourteen years, must the vote still be counted or must the question be met and settled? How met? By debate or by judicial inquiry? Are we not compelled to inquire, deliberate, and judge? Or suppose that it is alleged that electors appointed by the State were at the time of their appointment members of Congress, persons holding offices of trust or profit under the United States, or who had been in rebellion and were not relieved, or that the electoral college did not meet in its proper State, or that it did not vote by ballots, or on the day fixed by law, or that it voted for citizens of its own State for both President and Vice President? In each of these cases questions of fact are involved and must be decided. Take the case of the Oregon elector now undergoing investigation. What is this? Is it a mere ministerial duty or is it not the essential preliminary to the application of constitutional law to a given state of facts? Such a proceeding is the highest exercise of judicial inquiry.

In all of the cases cited, indeed in every case of alleged violation of the restraints imposed by the Constitution, either as to a choice of electors or as to qualifications of officials voted for, there is a case for judicial and not ministerial action. The guarantees of the Constitution, if violated, may be inquired of in the same manner. If, for instance, a State by its statutes or through its returning boards refuses by reason of his color to certify that a colored elector who had a majority was chosen, could not the tribunal to count the vote make the proper inquiry and correct the wrong? Or if a State has by its laws undertaken so to constitute its election tribunals as to nullify the provisions of the Constitution guaranteeing privileges and immunities to citizens of the United States, is their to be no remedy? Must the vote still be counted? Or if the State sends one return and in its transmission to the President of the Senate another and a different one is substituted, must the latter be counted? Or if between the act of the people in voting and the opening of the return by the President of the Senate there is interposed under State law a tribunal without responsibility to any power and above judicial control, which, violating the guarantees of the Constitution, deprives the man chosen of his place as elector and substitutes another in his room; or, if plain mistake or palpable fraud be shown to exist in the paper upon which the tribunal is called to act; is there still no power to inquire and decide? Such an organization would be constituted to nullify the popular will, and not to ascertain and declare it.

The power to count the vote is given in express terms. If Congress has this power it is to judge of the means proper to reach the end sought. Those means are to be legitimate and necessary to that end, and must be necessarily implied from the character of the power conferred. All of these instances in my view imply the necessity for other and higher power than mere ministerial action. The enactment of an act of Congress might be, and probably is, a just means to simplify the manner of reaching the end sought; but there is no act of Congress that can be drawn that will cover every case that may arise, and relieve the tribunal vested with power to count the vote from a necessity for the exercise of its judgement and discretion in such a contingency as is now upon us. Our safety now consists in the patriotism, sense of justice, and obedience to law of the two Houses and of the people.

The two Houses of Congress are vested by the Constitution with the power of judging of the necessity and means to be used in several instances. They may admit new States. Congress alone can judge of the fitness of the State or of the character of its constitution. It may deliberate and judge, reject or admit. The writ of *habeas corpus* may be suspended. Congress must judge when "in cases of rebellion or invasion the public safety demands it." It may deliberate and judge, suspend or refuse to suspend.

Upon this subject I cannot do better than to quote *in extenso* the language of Hon. John Sergeant, one of Pennsylvania's most gifted jurists, in the Missouri case in 1820.

> I have said that it is derogatory to the authority of Congress and wholly inconsistent with the tenor of its ideas and capacities to suppose that it is merely to perform the humble ministerial office of opening the door, upon demand, for the admission of a State, without any discretion whatever. No instance can be found where the Constitution has assigned to the legislative power the performance of such a duty. Thus construed it is not a power at all. The cases that have been put are in no respect analogous. The power of Congress, upon the death of the President and Vice President, to declare what officer shall act as President of the United States is a very high power, involved in its exercise much discretion, a discretion commensurate with various and important trusts confided to the Chief Magistrate.
>
> It can with no propriety be said to be ministerial, and its being deposited with Congress is the strongest proof of the confidence reposed in that body. The office of counting the ballots upon the election of President and Vice President, simple as it may seem, and easy as in ordinary cases it is, is nevertheless an office of important trust, and including some judicial discretion, as well as a most serious responsibility. It is a fit office to be executed by the highest body in the nation. The power of impeachment is not ministerial but a judicial power, and it belongs not to Congress, but to a single branch. The same remark applies, with equal force, to the right which each branch possesses of judging of the election and returns of its members, a judicial power, incident to every body composed of elective delegates, and one of its inherent privileges. In all these cases, however, it may not be amiss to observe that the Constitution gives only the principal power. The incidental powers, such as sending for persons and papers, enforcing the attendance of witnesses, and the like, are implied from the principal grant.

The fourth proposition, which is: "The power to count the electoral vote is in the two Houses of Congress acting concurrently as independent bodies," may be sustained by three classes of arguments: those drawn from the structure of the Government, those drawn from the words of the Constitution, and those drawn from the precedents. The two Houses are the best fitted to perform this duty, for they have local knowledge which becomes valuable for protection of the returns from wrong and fraud. The duty to be performed is a high and important one. It is the recording of the popular will. Without its performance the government would stop and anarchy ensue. To the Congress are given all of the great powers of the Government. It can make laws, declare war, tax the people, and raise armies and navies. To the Vice President, as President of the Senate, the Constitution denies a vote in the body over which he presides. Which is the more likely depositary of such a power? The votes to be counted are those for President and Vice President. In the event of a failure to elect the former the House is given exclusive power to choose. On a failure to elect the latter the Senate elects a Vice President. Such extraordinary powers given in a contingency which may arise demonstrates that the two bodies were together to ascertain the popular result, then to act separately if the necessity arose.

The two Houses are equal in power. (Article 1, section 1.)

Congress determines the time of choosing the electors and the day on which they give their votes. (Article 2, section 1, clause 3.)

The Senate and House are present when the votes are counted. (Twelfth amendment.) Why are they present? In order that the House may, by its own supervision and count, determine the necessity, if one exists, to elect the President; in order that the Senate may in like manner determine the necessity, if one exists, to elect the Vice President.

Senators and members are there to protect the interests of their States and people and prevent false counting or fraudulent action. Are they present for no purpose? Are they idle spectators, powerless to prevent a fraud on the people they represent? A power to count the votes, which is the power to direct and control the count, is given to some agency of the Federal Government. If it is given to the President of the Senate, why is not the language "shall open all the certificates and count the votes?" This would be simple and direct as well as conclusive. But the language used gives him power to open certificates and goes no further. The power expressed excludes the granting of the other. He is not even made the presiding officer of the two Houses when they meet. The Senate is there with its presiding officer as a Senate. The House is there with its presiding officer as a House. There officials are there under this clause of the Constitution with equal power, except that the President of the Senate has the custody of and is to open the certificates. A presiding officer for the joint meeting can only be provided by the agreement of the two Houses in advance.

If a President *pro tempore* of the Senate can "count the vote," does he then exercise his own power or that of the Senate? If the former, an official whom the Senate can at any time displace is in this matter greater than the body that creates him. It follows that if a President *pro tempore* who will not obey the Senate be in the chair the Senate can remove him and give his place to one who will obey its commands. He thus exercises his own power under the threat of the Senate. Such an independent official would be an absurdity. If it be the power of the Senate which the President *pro tempore* exercises in counting the vote then it is the Senate that counts the vote and its co-equal body is excluded from participation. No words give such power to the Senate nor can it be implied from the language used. Both Houses are present and both or neither direct the count. It is a strange result too, if the Vice President, *ex officio* President of the Senate, shall have independent power in counting the vote while the temporary official has a different hold upon the power. The former might be a safe depositary of this power and a consistent interpretation might be made, but when we find that the language used also clothes an official who is not independent with such power, the argument against its existence is almost conclusive.

The words "all" and "then" in this clause of the Constitution are full of meaning. "Shall open *all* the certificates and the votes shall *then* be counted." Quantity of certificates and time of counting are here placed in order. After all are opened counting begins. It is not to open the certificates from one State and dispose of it, the rest remaining meanwhile in the custody of the President. It is not to open one return from a State and withhold another, but it is plain, direct, unambiguous. Open *all* the certificates, lay them before the two Houses, *then* the work of counting begins. This plain reading of the language makes the President of the Senate the avenue of communication between the electoral colleges and the tribunal that counts the vote. When his work is completed, the counting, ascertaining, and adjudicating which by the Constitution are devolved upon the two Houses, begins.

The precedents establish the fact that from the foundation of the Government the Senate has recognized the equality of the House and its right and power to aid in counting the vote. With but one exception, from 1789 to 1865, when the joint rule was adopted, the Senate has originated a resolution inviting the House to join in the appointment of a joint committee to propose and report a mode of counting the vote and declaring the result.

In every case but one they have acted concurrently in the appointment of such commitee, and acted under the report of such committee in counting the votes. In no instance since 1793 has the President of the Senate counted the vote. This work has invariably been performed by the tellers appointed by the two Houses and under their direction.

The theory that they must both act is fully settled by practice. In every instance the Houses have separated to decide any questions arising in the joint meeting, and thus they fully recognize the equality of the two Houses.

The remaining propositions will be discussed incidentally in what I propose to say in regard to the finality of the action of the returning board of Louisiana and the power to go behind its action either for violation of constitutional law or for fraud and falsehood in its returns.

The Senator from Ohio [Mr. Sherman] in his speech of 7th December says:

> The members of the returning board are just as much officers in the performance of a limited judicial duty as your Supreme Court is in a broader one, just as much as a justice of the peace is. The judicial power and duties of that tribunal must be respected by the tribunals of the United States.

And again upon the 8th:

> Their judgment is final, and made so by the laws of Louisiana and by the Constitution of the United States.

There can be no mistaking this language; the broad doctrine is asserted that the returning board of Louisiana is a judicial body, that its powers and duties as such must be respected by us, and that its decrees are final and conclusive. To clothe it in other words, it is that the returning board of Louisiana is a court, that within the sphere of its jurisdiction it is to be respected as a court, and that its judgments and decrees are binding upon all the world. Before we admit the truth of this doctrine and accept the consequences that flow therefrom, it will be wise to learn whence comes the power to transform a board of election officers into a tribunal that is superior as well to the judicial, legislative, and executive officials of its own State as to the universal theory of American election law.

What then is this tribunal, so potent, so sacred, so conclusive? It is created by the Louisiana statute of 1872, in these words:

> That five persons, to be elected by the Senate from all political parties, shall be the returning officers for all elections in the State, a majority of whom shall constitute a quorum, and have power to make the returns of all elections. In case of any vacancy by death, resignation, or otherwise, by either of the board, then the vacancy shall be filled by the residue of the board of returning officers.

A board gifted with eternal life, and each of its members an official during the term of his natural existence! There is neither limit to their official terms nor responsibility to the people.

The powers of this board are found in sections 2 and 3 of the same statute.

The first branch of the power given by these sections, that in section 2, is simply to *canvass and compile*, a purely ministerial duty, similar to that vested in similar officials in nearly all the States. Section 3 adds to these functions other and graver duties. By it the board is vested with authority to receive sworn statements of intimidation, &c., to proceed to investigate, to hear testimony, to send for persons and papers, to be convinced, to refuse to canvass and compile, and to exclude returns. Under the ministerial provisions in section 2 the returns made by the board are stated to be what is universally true, but *prima facie* proof of the right to hold the office until set aside after *a contest according to law.* Here are all the duties, powers, and sanctions of authority ordinarily given to such officials, and here too is expressed and reserved the right of the law to adjudicate upon their finding.

But when we take up section 3 to learn what powers are given there, we find them to be anomalous, new in character, and foreign to our system. A sworn statement is to be filed. By whom? By the voter to be disfranchised? By the candidate whose rights are to be passed upon? By neither, but by the election officials. The returning board are to investigate the statements of intimidations, &c., and if *from the evidence of such statement they shall be convinced* that there was not such intimidation, &c., as to materially change the result of the election, then, and not otherwise, they shall canvass and compile the votes named in the statement. Riot, blood-shed, and murder may surround the election polls, peaceful citizens may be driven from them and the will of the majority be defeated by violence, if the statement of the election officials fails to disclose it, or the board are not convinced by what it contains that such was the fact, the votes are to be counted. True, the proviso to the section with great show of fairness, but in order more effectually to foreclose investigation, provides that a candidate may have a hearing before the board. In that hearing the only instruments of evidence are the statements of the election officers. Such a hearing is a mockery of justice.

These provisions, as I read them, give to the board the power to convince every one that the election was pure and free and that nothing occurred to materially change the result. If, however, the board is not satisfied that this was the case, then they shall examine further testimony and may send for persons and papers. If they shall then be convinced that intimidation, &c., did occur and materially interfere with the freedom of the election or prevent sufficient electors from registering and voting to materially change the result, then the vote shall not be canvassed, but shall be excluded from the returns. The statements of the election officers, it will be seen, are still the substantial accusations against the poll, but other testimony may be examined. The board are thus vested with the right to hear the charge, (the statements of the election officers,) to examine witnesses, to send for persons and papers, *to be convinced* that there was intimidation, to *judge* of its materiality both as to interfering with the freedom and as to changing the result, and upon such judging to exclude the poll. It must be admitted that these are judicial powers. They vest the tribunal with power to hear something, to judge after hearing, and to execute their judgment. Is it a court or is it a returning board? What do those who sustain its authority claim it to be? On page 175, of Document No 2, sent to the Senate by the President, I find Judge E. J. Campbell, of the Fourth district court, New Orleans, in his letter to Mr. Garfield, speaks of it thus:

> It will be seen that these five returning officers are neither a canvassing board nor a returning board; and, therefore, there is no analogy between their powers and functions and those of canvassing boards of other States. These five officers are the returning officers of the State for all elections. There are no returns, and can be none, of any election, but the returns which these officers make. In the eye of the law they are present at each poll. * * * It is the returns of these five officers, and these alone, which, under the law, constitute the *prima facie* evidence of the result of the election. Their power to inquire into and determine the result of violence and intimidation where alleged is not the power of counting out or counting in votes, but the power to decide whether alleged votes are votes or not; it is the power to examine into cases where an election has already been nullified by acts of violence, and so forth, and if the nullity is proved according to law, to ascertain and declare that nullity.

The Senator from Ohio [Mr. Sherman] and those who unite with him, in their report in the same document, page 5, speak of it in this language:

> Not only is the action of this board independent of the State or national laws other than those of Louisiana, but its determination of the votes cast and candidates elected is final and substantially conclusive, as appears from a decision of the Supreme Court of that State, reported in the twenty-5th volume of the Louisiana Annual Reports, where the court, page 268, say: "No statute conferring upon the courts the power to try cases of contested elections or title to office authorizes them to revise the action of the returning board. If we were to assume that prerogative, we should have to go still further, and revise the returns of the supervisors of elections, examine the right of voters to vote, and, in short, the courts would become in regard to such cases mere officers for counting, compiling, and reporting election returns. The Legislature has seen proper to lodge the power to decide who has or has not been elected in the returning board.
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> "It might have conferred that power on the courts, but it did not. Whether the law be good or bad, it is our duty to obey its provisions, and not to legislate."

Great reliance is placed upon this decision of the Supreme Court. I do not regard it as adding to the value of the powers granted nor giving moral strength to the power assumed. It was delivered by a divided court. The judges assenting to the doctrine were Chief Justice Ludeling, Justice Taliaferro, and others.

Of the character of at least the head of this court, we may judge by what Mr. Justice Strong, of the Supreme Court of the United States, says, in the opinion of that court in the case of Jackson *vs.* Ludeling, in 21 Wallace's Reports. At page 621, after describing a combination of which Mr. Ludeling was an active member, he says:

> Were there nothing more in this case than is narrated by the brief history thus given, which is uncontradicted, it would be difficult to characterize the transaction as anything less than a great wrong perpetrated *by the agency of legal forms.*

Again, at pages 628 and 629, after discussing the agreement entered into between "Ludeling, for himself and friends," and J. N. Horne, Judge Strong says:

> It is impossible to characterize this agreement as anything else than fraudulent. Its obvious purpose was to remove competition at the sale. It was a flagrant breach of trust on the part of Horne, and it was *a fraud in Ludeling* with knowledge of the trust. Horne had undertaken to persuade him to violate his instructions and sacrifice the interests of his constituents.

And again, at page 631, after stating the combination to defeat a sale for $550,000 in order that they might buy the property for $50,000, Judge Strong says:

> It is impossible to sustain such a transaction. Throughout it was grossly inequitable. Ludeling, it is true, was not a director, but he was a leading member of the combination and its chief agent to carry out its plans. He knew its purposes. He knew its illegality. He had negotiated the surrender of Horne with full knowledge of Horne's breach of trust.

And at page 632—

> The defendants can take nothing from such a sale thus made. Were we to sustain it we should sanction a great moral and legal wrong, give encouragement to faithlessness to trusts and confidence reposed, and countenance combinations to *wrest by the forms of law* from the uninformed and confiding their just rights.

Such is the picture drawn by a just judge of the personal conduct of the head of the court whose decision is relied upon as estoping the people of the United States from an inquiry into the conduct of a returning board in whose action they are all interested. Is it strange that the forms of law are now sought to be used to cover wrong when we regard the mighty interests at stake and the past records of those who wield power in Louisiana?

We are thus brought face to face with the fact that there exists in Louisiana a tribunal which its courts and its laws say has absolute power over the returns of elections, from whose decrees there can be no appeal, over which no court, either of Louisiana or of the United States, has supervisory control, and which can, and in the present issue has, assumed to adjudicate the results of the Presidential election. If it be true as asserted by the Supreme Court of Louisiana that the whole power of the highest legal tribunals in the land is superseded and subordinated by this board, within the sphere of its jurisdiction; if it be true than ten thousand citizens can be disfranchised by its decrees without a hearing and without a remedy; if it be true that it is gifted with power not only to try, convict, and punish in their absence those who have been guilty of riots and intimidation, but also those who have neither participated in nor known of its perpetration; if it be true that those whom the people have chosen to fill the offices of the State are concluded without a judicial hearing, and that a candidate for elector of President chosen by an apparent majority can be returned defeated and there is neither a contested election nor a review by judicial authority for his relief, then it is time to inquire as to the grounds of our reliance upon a government of law and to learn whether the guarantees of the Federal Constitution mean what they import.

I cannot agree either that the Louisiana returning board is a court, that its decrees are conclusive, or its judgments final, but I do believe and affirm that its assumed jurisdiction and authority are contrary to the theory of our institutions, anti-American in principle, and that they violate the plain letter of the Federal Constitution. In no other State in the Union are the acts and doings of a returning board held to be of absolute verity and conclusive of their correctness. In every other organization of the kind in the country their duties are held to be ministerial, or, if quasi-judicial functions are vested in them, the right to review of their adjudications is reserved to the courts of law through a contest, or to some other body vested by law with the power and the means to pass judicially upon the questions involved. Returning officers are mere registers of the popular will expressed under the forms of law. If they be constituted also a tribunal of the last resort both as to facts and law, they are vested with power to nullify that will at their pleasure. From being its mere conduits they become its judges and its tyrants. From being the means of its faithful expression they may become the irresponsible agents of falsehood and wrong.

Dare we trust the ballot to the returning board utterly uncontrolled by the judiciary? Is there safety anywhere if it be not found in this supervisory power? What will become of the sense of security that all feel when our bloodless revolutions have passed that the return is the truth, or the law, wielded by faithful judges, will be invoked by those interested to make it [illegible] Is this not the very anchor of the election system? Can we dispense with it? Will not the result which the action of this returning board fastens on the country be the entering wedge to our destruction—the leprosy that will infect and taint the whole body? Such an innovation as this, with such results as hinge upon its action, will speedily demonstrate that returning boards, with absolute power over both law and fact, and the ballot, cannot exist together in a free State.

Upon the faith of the people, upon their implicit and unhesitating confidence in the popular vote as the truthful representative of the popular will, depends the life of our institutions. The theory of our government and the noiseless working of its complex machinery both depend upon the faith we have in this great leading thought. Take from the forms of expression of the popular vote the safeguard and protection of judicial scrutiny, and faith will have departed with them. Political and judicial duties fit but ill upon the same person. The return and the certificate flow from the rapid and superficial count of the returning officer. The tests of their truth and of their effect belong to the slower, cooler, and more cautious methods of the law. The former is *prima facie*; the latter, when completed, is conclusive. The former accepts for truth that which seems to be truth; the latter receives complaints, hears testimony, deliberates, and judges. The doctrine of the conclusive effect of the judgment of a court finds its reason and its origin in the fact that the party must be heard before he is condemned. This protection has been the property of race since Magna Charta. To condemn without hearing is tyranny. Nor can it be argued that under this statute those who are judged are given a hearing. Here are none of the vital essentials to such a tribunal as those enumerated by Chief Justice Waite in the most recent case. Does it anywhere appear "that ample provision has been made for the trial of the contestation before a court of competent jurisdiction; for bringing the party against whom the proceeding is had before the court and notifying him of the case he is required to meet; for giving him an opportunity to be heard in his defence; for deliberation and judgment of the court; for an appeal from this judgment to the highest court of the State, and for hearing and judgment there?" Where are these guarantees of judicial fairness in this case?

The board itself is unfitted by the character of its composition to give an impartial hearing or a just judgment. The end the law seeks to attain may be a just and proper one, but in seeking it great fundamental rights are destroyed.

> No freeman shall be taken or imprisoned, or disseized of his freehold or liberties or free customs, or be outlawed or exiled, or any otherwise destroyed; nor will we pass upon him or condemn him but by lawful judgment of his peers or by the law of the land.

These rights are as broad as our country. They go with our race into every clime. Their infringement in Louisiana is no more possible than in New York. Freemen cannot be disseized of their liberties, nor condemned but by the "law of the land." "The law of the land" is not a statute of Louisiana repugnant to the theory of law everywhere. Citizens of the United States in every locality are affected by this statute now. Its execution affects us all. Vested by law with conclusive power, this returning board—"this court of the last resort"—sweeps out of existence ten thousand ballots and decides the Presidential election. Neither the statute nor the board gives to an elector of the United States chosen by a majority the right to contest for his place. The laws of Louisiana utterly deny this right. No formal petition or complaint, with a specific detail of the wrongs committed; no plaintiff, complainant, or accuser is permitted to tread the portals of this court; no answer under oath or in writing by defendant or accused is demanded; no notice to those chosen by the majority to appear and answer; no compulsory process for the attendance of witnesses; no power to punish for contempt; no right of appeal as to matter of fact; no exception for review of errors in law is given to this "court," whose decrees and edicts are fraught with consequences so momentous to the American people. Such a tribunal is no court. It is a judicial monstrosity. It can give no lawful hearing. Its decrees are not binding. Its judgments are not final. Its construction and powers violate every conception of a court as a place where justice is judicially administered which we entertain as a people. It grasps our rights and destroys them without a hearing.

This law and its creature, the returning board, so far from being in accord with the Constitution of the United States, so far from requiring "from us the same respect for their decisions as would be given to the decisions of the Supreme Court of the United States," are at flagrant war with the Constitution, and they only demand from us the seal of our condemnation. The are not only destructive of the theory, but they violate the plain letter of the Federal Constitution. Whatever may have been the rule before the adoption of the Government in the States of those great rights and privileges which belong to the individual—those which are fundamental in character and accompany a citizen of the United States wherever he may go—there can be no doubt that since its adoption the States are prohibited from either destroying, abridging, or depriving the citizens thereof. The words are:

> 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.

Passing by the question arising under the first clause as to what are "privileges and immunities of citizens of the United States," we come to the consideration of the second clause. What is property, within the meaning of this clause? Let us take up the authorities and examine them:

> The truth, however, is that all incorporeal hereditaments, whether they be immunities, dignities, *offices, or franchises*, or other rights, are deemed valuable in law. The owners have a legal estate and property in them and legal remedies to support and recover them.—*Dartmouth College vs. Woodward, 4 Wheaton.*
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> The theory upon which our political institutions rest is that all men have certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; and that in the pursuit of happiness all avocations, all honors, all positions are alike open to every one, and that in the protection of these rights all are equal before the law.—*Cummings vs. Missouri, 4 Wallace.*

That this clause of the Constitution guarantees protection to this form of property is conceded by the Chief Justice in Kennard *vs.* Louisiana, 2 Otto, 581:

> "Due process of law," as herein used, imports the same meaning as "the law of the land" in Magna Charta. It means "the law of the particular case in a fair and open trial." "The provision and those as to the administration of justice require that all [illegible] heard and shall be tried, decided, and enforced by the judicial authority of the State and by due course of law. The design of the Constitution is to exclude arbitrary power from every branch of the Government, and there would be no exclusion of it if the receipts or decrees of the Legislature were allowed to take the form of a statute. It does not mean merely an act of the Legislature, for that would abrogate all restriction on legislative power." It is not the arbitrary edict of any body of men; not an act of Assembly though it may have all the outward form of law, but that process by which what one alleges to be his is adjudged not to be his. If this be not so every restriction upon legislative authority would be a vain formula of words, without life or force." It ordinarily implies and includes a complainant, a defendant, and a judge, regular allegations, opportunity to answer, and a trial according to some settled course of judicial proceeding. I cannot persuade myself that a judge of elections or a board of election officers constituted under State laws is such a tribunal. (pe. Strong, J., in 53 Pennsylvania Reports, 117.) By "the law of the land" is most clearly intended the general law which hears before it condemns, which proceeds upon inquiry and renders judgment only after trial. "Due process of law" as defined by the Chief-Justice in Kennard *vs.* Louisiana is "the due course of legal proceedings according to those rules and forms which have been established for the protection of private rights."

We search in vain through the statute that gives life and power to the returning board of Louisiana for the qualities that all of these authorities as well as common right make vital to its validity. It is not a judicial tribunal nor a place where justice can be judicially administered. Its decrees affecting the right of property, of liberty, or of life are void. Its assumed authority to pass judicially upon the right of any candidate for office is baseless. Much more is it impotent when its void decrees are hurled at an official whose place affects the machinery of the Federal Government. A candidate for elector of the United States is by the plain terms of the Constitution entitled to be judicially heard, to have his day in court, to have process for his witnesses, to be judged according to "due process of law," before his office is given to another. Here is none of these. The State of Louisiana through her statutes and by her courts seeks to deprive a citizen of the United States of his property without due process of law. In this she comes in conflict not only with the universal law controlling returning boards and with the right of every citizen of the Republic, but also with the supreme law of the land. It results that her statutes give no vigor to the action of the board they create, that their decrees are not binding nor their judgments final.

The argument resolves itself into this proposition: If a citizen of Pennsylvania and of the United States removes to Louisiana, on compliance with its laws he becomes a voter and a citizen thereof and may be chosen an elector of the United States. As such, if, under the provision of the statute, he were deprived of enough votes to reduce his majority to a minority, it would be an abridgment of his privileges as a citizen of the United States, for his right to the office unless deprived thereof by due process of law—which this is not—would be clear: or it may be stated thus: honors and offices are property. The right to own and hold property is an inalienable one. It belongs to every citizen of the United States. He cannot be deprived of his property save by "due process of law." A citizen of Pennsylvania going to Louisiana takes with him this right. Upon compliance with the laws of Louisiana he may become a voter and a candidate for elector. If he obtains a majority of votes he is entitled to the office unless deprived of it by due process of law. A contested election is that process. This statute denies this right, refuses to contest, and judges without hearing. It is therefore in conflict with the Constitution and void. The citizen of Louisiana who is a citizen of the United States is in the same attitude and has the same rights.

If the office of elector for President of the United States finds its origin in the Federal Constitution, and did not exist without it, then the right to be chosen in accordance with its provisions is a "privilege and immunity" of a citizen of the United States, and this, too, although we concede that the States have exclusive power in their appointment. They could not appoint an alien, yet no prohibition thereof appears in the text. If we concede, too, that "privileges and immunities" within the meaning of the fourteenth amendment are "only those rights which arise out of the nature and essential character of the National Government, the provisions of its Constitution, its laws, and its treaties," still the right of a candidate for elector to be protected within the States [illegible] and are valueless. If in those things which pertain to the very existence of the Federal Government those privileges and immunities may be disregarded by the States, then they mean nothing. One of these guarantees is "due process of law." The State of Louisiana has made and now attempts to enforce a law which abridges this right and thus violates the plain terms of the clause "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

It is said that fraud and wrong, riot, murder, and intimidation, exist in Louisiana and her law-making power must be permitted to use extraordinary remedies to suppress these. We need not inquire how the machinery created by these laws is used, nor whence proceed the ills complained of. Arbitrary power is no corrective for these evils. The remedy is worse than the disease. There is force and vigor enough in the legal remedies which are sanctioned by the organic law when they are administered and enforced by authority moves with the dignity and power of the majority of the people to suppress every wrong and sustain every right.

Fraudulent voting, false returns, violence, intimidation, and all the other evils that afflict Louisiana in her elections come to us frequently in the North, but the remedy for these is not found in the disfranchisement of masses of men without a hearing, nor in the arbitrary exercise of judicial power by an irresponsible tribunal. The polls are purged, fradulent votes rejected, returns coerced to speak the truth, the merits found, more irregularities overlooked, and precincts thrown out when utter and willful violation of law is shown, but these results are reached through legal processes, sanctioned by constitutional authority and sustained and approved by the popular will. In these processes and in these forms of judicial inquiry alone, of which complaint and answer, a day of hearing and an actual hearing are always a part, is found the basis of our faith that the popular vote is the truthful exponent of the popular will. Take these away from popular institutions and you will have substituted arbitrary power for a government of law.

Standing upon the threshold of a second century of the Republic with the retrospect in our possession by which to guage the future, with the plain proof that the power exists to successfully base popular institutions upon a free ballot if popular faith and legal scrutiny be its accompaniment, we should be faithless to our highest duty if we did not, by every means given us to use, compel the returns from every State to speak the truth; if we did not, in the exercise of our undoubted right "to count the vote," apply the tests of judicial scrutiny and of honest methods to the tortuous ways of partisan returning boards; if we did not, in all that pertains to Federal organism and Federal machinery, produce strict conformity to the Federal Constitution and purge and winnow the material returned until the people in every section recognized and admitted the legitimate results that had been produced by a pure and free ballot.

It is said that this action of the returning board is the action of a tribunal vested by the Constitution with exclusive power over the subject-matter, and that we are bound by it. It is to be remembered that it is not the Constitution that gives force to the certificate of the executive authority, but an act of Congress; that the Government of the United States, under its own power, makes this a mode of proof of due appointment of electors by the State, and that a careful examination of that statute will show that its provisions are mainly directory in this regard. If it were a part of the requirements of the Constitution and made imperative on the Legislature of the States in creating their mode of appointment, a different question might arise; as it is, it is our requirement, and is to be held, like all other directory statutes, to effectuate justice and right, and not to shield fraud and wrong. At the count of votes in 1873 the two Houses went behind this certificate in the Louisiana case, examined other testimony, and rejected the votes, and in the same year the certificate of the Secretary of State of Texas (and not that of the Governor) was adjudged sufficient, and the votes of the State received and counted.

If it be intended by this declaration, that we are bound by this action of a State, to recognize and count a false and fraudulent return simply because it comes covered with the insignia thereof, I cannot assent. This matter concerns all sections of the Republic. It is our right and our duty to protect our people from fraud and wrong, let it come from whence it may. We can and may and ought to administer the Federal Government in all matters affecting it, with parity. Falsehood and fraud affecting it ought to find neither protection nor tolerance in any of its departments.

In the adjudication of the weighty questions that now confront us fraud spoils everything it touches. The broad seal of the State is crumbled into dust as against the great interests designed to be defrauded. Every transaction in which it mingles, every return based upon it, is defiled by its contagious touch. Why should it find shelter in the highest representative tribunal of the Republic. This the last place on earth where it ought to find refuge. No rescripts of a State Legislature, no decree of a returning board, no judgment of a State court can or ought to protect it here. Whenever and wherever it is detected, whenever and wherever the test of truth judicially applied drags it into light, its disguises vanish, its repulsive form stands exposed, and its condemnation follows.

That "the king can do wrong" is a maxim of the English law. Pym and Hampden, in bold assertion of the rights of their countrymen, held that this king was he who ruled according to law. The ideal king—the majesty of law—the crystallized thought of ages, based upon common right, common justice, and common sense, they declared, was the real king, and the talent, intrepidity, and courage of these tribunes of the people riveted their thought upon the minds of Englishmen. The denial of this idea has cost one English king his head, another his crown, and a third the fairest colonies he possessed. For more than two centuries it has been the vital essence of English and American liberty. The State—the successor to the king—is not its organism, its seal, its territory, its legislature, or its constitution; but it is its people, their rights, their privileges, their immunities, and their happiness. The will of the people expressed through lawful and constitutional forms is the voice of the State, and forms and seal and papers fade away before the right, the power, and the duty that exist here to learn what it is, to judicially determine it, to obey its commands, and to register it as final.