THE
"CLEARFIELD REPUBLICAN,"
PUBLISHED EVERY WEDNESDAY, AT
CLEARFIELD, PA.
ESTABLISHED IN 1821.
The largest Circulation of any Newspaper in North Central Pennsylvania.

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January 30, 1878.

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

HENRY BRETH,
(ONTEMP P. O.)
JUSTICE OF THE PEACE
FOR BELL TOWNSHIP.
May 8, 1878-1y*

WM. M. McCULLOUGH,
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CLEARFIELD, PA.
Office in Masonic building, Second street, opposite the Court House. je26,'78-tf.

W. C. ARNOLD,
LAW & COLLECTION OFFICE,
CURWENSVILLE,
Clearfield County, Penn'a. 7jy

S. T. BROCKBANK,
ATTORNEY AT LAW,
CLEARFIELD, PA.
Office in Opera House. ap 25,'77-1y

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

S. V. WILSON,
ATTORNEY AT LAW,
Office one door east of Western Hotel building, opposite Court House.
sep4.5,'77. CLEARFIELD, PA.

FRANK FIELDING,
ATTORNEY-AT-LAW,
Clearfield, Pa.
Will attend to all business entrusted to him promptly and faithfully. jan1'7

J. F. SNYDER,
ATTORNEY AT LAW,
CLEARFIELD, PA.
Office in Pie's Opera House.
June 26, '78tf.

WALLACE & KREBS,
(Successors to Wallace & Fielding,)
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jan1'77 Clearfield, Pa.

BUCK & GRAHAM,
ATTORNEYS AT LAW,
CLEARFIELD, PA.
All legal business promptly attended to. Office in Graham's Row—rooms formerly occupied by H. B. Swoope. july24, '73-tf.

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

McENALLY & McCURDY
ATTORNEYS-AT-LAW,
Clearfield, Pa.
Legal business attended to promptly with fidelity. Office on Second street, above the First National Bank. jan:1:76

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. Jan1'78.

J. P. McKENRICK,
ATTORNEY AT LAW,
CLEARFIELD, PA.
All legal business entrusted to his care will receive prompt attention.
Office opposite Court House, in Masonic Building, second floor. aug14,'78-1y.

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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,'68tf.

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April 24, 1872. Clearfield, Pa.

DR. W. A. MEANS,
PHYSICIAN & SURGEON,
LUTHERSBURG, PA.
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DR. T. J. BOYER,
PHYSICIAN AND SURGEON,
Office on Market Street, Clearfield, Pa.
Office hours; 8 to 12 a. m., and 1 to 3 p. m.

DR. J. KAY WRIGLEY,
HOMŒOPATHIC PHYSICIAN,
Office adjoining the residence of James Wrigley, Esq., on Second St., Clearfield, Pa. july31,'78-tf.

DR. H. B. VAN VALZAH,
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Professional calls promptly attended to. Office on Second street, formerly occupied by Dr. Woods. [apr4,'64-tf

HARRY SNYDER,
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A clean towel for every customer.
Also manufacturer of
All Kinds of Articles in Human Hair.
Clearfield, Pa. may 16, '78.

CLEARFIELD REPUBLICAN.

GEO. B. GOODLANDER, Editor & Proprietor. PRINCIPLES, NOT MEN. TERMS—$2 per annum in Advance.

VOL. 53—WHOLE NO. 2,611. CLEARFIELD, PA., WEDNESDAY, MARCH 5, 1879. NEW SERIES—VOL. 20, NO. 9.

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CLEARFIELD, PA.
Office in the Opera House. oct9, '78-tf.

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ROLAND D. SWOOPE,
ATTORNEY AT LAW,
Curwensville, Clearfield county, Pa.
oct. 9, '78-tf.

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

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

REUBEN HACKMAN,
House and Sign Painter and Paper Hanger,
Clearfield, Penn'a.
Will execute jobs in his line promptly and in a workmanlike manner. apr6,'67

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BAKER, Market St., Clearfield, Pa.
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DEALERS IN
Real Estate, Square Timber, Saw Logs,
AND LUMBER OF ALL KINDS.
Office on Second street, in rear of store room of George Weaver & Co. [jan9, '78-tf.

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.

J. BLAKE WALTERS,
REAL ESTATE BROKER,
AND DEALER IN
Saw Logs and Lumber,
CLEARFIELD, PA.
Office in Graham's Row. 1:35:71

E. A. BIGLER & CO.,
DEALERS IN
SQUARE TIMBER,
and manufacturers of
ALL KINDS OF SAWED LUMBER.
8-1'72 CLEARFIELD, PENN'A.

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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

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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. [*jy16'72

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.

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.

Great Western Hotel,
Nos. 1311, 1313 and 1315 Market Street,
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Philadelphia, Penn'a.
Terms, $2.00 per day.
This Hotel is near the new Public Buildings, new Masonic Temple, U. S. Mint, and Academy of Fine Arts. T. W. TRAUCK, Prop'r.
OPEN ALL NIGHT. j7:17,'78-1y

Clearfield Nursery.
ENCOURAGE HOME INDUSTRY.
THE undersigned, having established a Nursery on the Pike, about half way between Clearfield and Curwensville, is prepared to furnish all kinds of FRUIT TREES, (standard and dwarf,) Evergreens, Shrubbery, Grape Vines, Gooseberry, Lawton Blackberry, Strawberry, and Raspberry Vines. Also, Siberian Crab Trees, Quince, and early scarlet Rhubarb, &c. Orders promptly attended to. Address,
J. D. WRIGHT,
sep20-68-y Curwensville, Pa.

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.

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INSURANCE AGENCY.
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(Successors to Murray & Gordon.)
The following first-class companies represented:
North British & Mercantile Fire Ins. Co., of England.....$26,000,000
Scottish Commercial Fire Ins. Co., of England.....$10,000,000
North America, of Philadelphia..... 3,700,000
Watertown Fire, New York, insures farm property only..... 100,000
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Persons in the country wanting insurance, can have it promptly attended to by addressing us in person or by letter. Lowest possible rates in first-class companies. No assessments. Office in Pie's Opera House.
ANDREW PENTZ, Jr.,
B. T. BROCKBANK.
Clearfield, May 4, 1876-1y. Agents.

The Constitutional Amendments and the Supreme Court.

SPEECH OF

Hon. Thomas F. Bayard,

OF DELAWARE.

Delivered in the United States Senate, February 4, 1879.

THIRTEENTH, FOURTEENTH, AND FIFTEENTH AMENDMENTS.

Mr. BAYARD. Mr. President, I call for the reading of the resolutions offered by the honorable Senator from Vermont.

The PRESIDING OFFICER, (Mr. Dennis in the chair.) The resolutions will be read.

The Secretary read the resolutions submitted by Mr. Edmunds on the 7th of January, as follows:

Resolved, as the judgment of the Senate, That the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States have been legally ratified, and as valid and of the same paramount authority as any other part of the Constitution; that the people of each State have a common interest in the enforcement of the whole Constitution in every State in the Union, and that it is alike the right and duty of the Congress to enforce said amendments, and to protect every citizen in the exercise of all the rights thereby secured by laws of the general character already passed for that purpose, and by further appropriate legislation, so far as such enforcement and protection are not secured by existing laws; and that it is the duty of the executive department of the Government faithfully and with diligence to carry all such laws into impartial execution, of Congress to appropriate all moneys needful to that end.

Resolved, further, That it is the duty of Congress to provide by law for the full and impartial protection of all citizens of the United States, legally qualified, in the right to vote for Representatives in Congress, and to this end the Committee on the Judiciary be, and hereby is, instructed to prepare and report, at soon as may be, a bill for the protection of such rights, and the punishment of infractions thereof.

Mr. BAYARD. Mr. President, in as few words as I may, I desire to give the reasons for my vote upon the resolutions introduced by the honorable Senator from Vermont; although it is not without reluctance that I occupy any portion of the short time remaining for the transaction of our necessary business before the end of the session, now so close at hand.

I would draw the attention of the Senate and of the country to the fact that the resolutions do not come to us under the form of regular business, they are not the result of the deliberations of any one of the committees of this body; they are not part of the legislative business of this body; they have the odor rather of a partisan caucus than the labors of a committee-room; they are accompanied by no measure from the tenor of which we can ascertain how far the Senator introducing the resolutions proposes to accommodate legislation to his abstract views.

These resolutions rather have the effect of converting this Senate Chamber into a moot court for the exhibition of argumentative power and party dialectics, than for any wholesome and needed purpose of legislation.

I cannot but feel that such attempts savor more of partisan tactics than of statesmanship and appear rather efforts to help a straitened party than to relieve a distressed and suffering country.

The resolutions aver the legal ratification and validity of the thirteenth, fourteenth, and fifteenth amendments to the Constitution. Now it is remarkable that the first doubt from any quarter known to me cast upon the obligatory force of these amendments should come from the Senator from Vermont himself. The very implication contained in these resolutions that it is necessary, at this time, for the Senate of the United States by its resolution to confirm the validity of these amendments, places them or would seem to place them if it had any effect, whatever in greater insecurity than any one has heretofore suggested.

Why single out these three amendments and admit, as this resolution impliedly does, that *they* need the confirmation and fortification of a vote of this Senate? For it will be observed that these resolutions do not propose to affect the judgment of the other House of Congress,—it is confined to the judgment of the Senate solely.

If by the judgment of the Senate as at present constituted any effect can be produced in its expression either to weaken or to strengthen these amendments, then is it not obvious that, by a change in *personnel* and party relations in the Senate, contrary resolutions can have the effect to obliterate those which are now passed and effect these amendments and deprive them of validity? To such a doctrine I can never consent, and yet it is, in my judgment, the irresistible implication of the resolutions now before us.

If there was no doubt in the mind of the author of these resolutions of the validity of these amendments, why should he think it necessary to bring them before the Senate now? Because the Constitution cannot be amended by the separate action of this body nor the validity of any portion of it gain any weakness or strength by the individual opinions of members.

Mr. President, there is not a member of this body who has not, like myself, taken at least once, and some of us more than once, the public and solemn oath of the office, the emphasis and gravity of which is unmistakable. It is found at page 155 of the Manual we all here use. Let me read the latter portion:

And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: so help me God.

Let me ask how can additional force be gained by votes in favor of the validity of these amendments, which every Senator has thus sworn "without any mental reservation or purpose of evasion" to uphold?

Nay, further; the recognition of the obligatory force of these amendments as part of the Constitution of the United States, has been recognized by both of the great political parties in their voluntary assemblage in their national conventions in 1872 and 1876, in language too plain and explicit to leave room for doubt, and which was intended, and has succeeded in eliminating all questions in regard to the obligatory force and validity of these amendments from any possible controversy.

But it is not, Mr. President, the question of the regularity of the adoption or validity of the amendments; it is the question of the construction which is sought to be given to the amendments, that constitute the real object of the resolutions. It would pledge those who vote in favor of these resolutions to pass further laws of "the *general character already passed*" in order to secure the execution of the amendments. Sir, in the mind of a certain class of politicians the adoption of the thirteenth, fourteenth, and fifteenth amendments worked a practical revolution of our entire Federal system, and completely subjected the rights of the States reserved in former provisions of the Constitution to the people of the States and the States to the sole will and discretion of the legislative branch of the Federal Government. In pursuance of this theory we have seen within the last eight years law after law enacted by the majority which has been dominant in Congress in the last eighteen years, invasive of the prerogatives of other branches of the Government and completely subversive of the essential rights of the States. The records of congressional debates will disclose the wild and revolutionary extent to which the claim of power by the advocates of this construction have gone, and to-day what these resolutions really propose is a continued invasion not only of the essential rights of the States by a continuance of the same general class of legislation which already has been enacted by Congress for the purpose of enforcing these amendments, but also of usurping the function of interpretation of the fundamental law.

Mr. President, *against nothing were we more strongly warned by the founders of our Government and the most zealous advocates of the Constitution than the accumulation of power in a single branch. All writs upon Government as cited in the Federalist by Mr. Madison concur that the accumulation of powers, executive, judicial, and legislative, in any single hand is the very definition of tyranny.* In framing a law or an amendment to the Constitution, I hold it to be the power of the legislative branch to employ proper language to their object; but in the execution of the laws, the interpretation of the language which has been used by the legislative branch must be controlled by the judiciary, and laws passed by subsequent legislatures declaratory of the meaning of a constitution or a law have no binding force whatever upon the judicial branch who in the performance of their own duty are called upon to interpret for themselves the law as it was originally passed.

In their contributions to the Federalist Hamilton and Madison have warned us against the revolution in Government that can be accomplished by misconstruction and false interpretation, as one of the most dangerous and easy methods by which the stability of a constitutional government may be overthrown, all the more dangerous because unperceived in its approaches. *Armies arrayed in open force to overthrow a government are not half so dangerous as this subtle attempt to undermine clear provisions by false construction, to create powers by interpretation that never were intended, to destroy that regularity and separation of powers which is essential to civil liberty.*

Treating these resolutions of the honorable Senator from Vermont by the light of others which have been introduced by his party associates into the Senate at the present and former sessions, we see the design by a false construction of the Constitution and its amendments to bring within the control of Congress the great body of civil rights, the fundamental privileges and immunities of citizens which have always in the history of our Government been admittedly confided to the sole domain and control of the State governments without power of interference in any degree by the Government of the Union. From time to time the attempt has thus been made *to change our form of government into a centralization of unlimited powers.* An issue no less grave, in my judgment, than this is gradually shaping itself in this country. Parties are, perhaps insensibly, being arrayed on one side or the other of this great dividing question, the centralization of power in the Federal Government without limitation except that which the mere will of Congress may impose.

Sir, I hold this to be the real and dangerous issue that lies at the basis of all these attempts by construction to extend the jurisdiction of Federal power to obliterate those limitations, which delegate to the Federal Government that comparatively unlimited sway over the persons, the property, the civil rights, the privileges, and the immunities of the citizen, which were confided or rather which were left undisturbed wholly in the care of the State governments except those limited and careful grants of power to the Government of the Union which are enumerated in the written character; and it is against every step in that direction *that I protest, that I now warn the Senate, and against which I shall ever be found in vigilant opposition.*

Sir, I do not propose to repeat arguments made by myself or others in this Chamber heretofore, since 1870, in opposition to that general mass of legislation known as the reconstruction laws or the enforcement laws, which I then considered and still consider to be wholly without constitutional warrant, and as invasive and destructive of the essential powers of the States. Despite the disrespect which has been expressed on this floor by the Senator from Vermont for the decisions of the Supreme Court of the United States, and although I do not feel myself able to go to the length of the propositions laid down by the honorable Senator from Alabama, [Mr. Morgan,] yet the recent decisions which have been made by that tribunal are not only entitled to obedience while they remain unreversed, but they do form landmarks of proper limitation upon the exercise of legislative power, and I can conceive nothing worthy of the name of a duty or even a justification in reiterated attemps to accomplish political ends through forms of legislation which have been already declared by the judicial branch in its seats of final decision to be in conflict with and unwarranted by the Constitution.

In December, 1870, the case of the Collector *vs.* Day was decided by the Supreme Court. The venerable and learned Mr. Justice Nelson, speaking for the court, delivered a most interesting and lucid review of the true sphere and jurisdiction of the States and Federal Government, and at that time the three amendments which we are called upon by these resolutions of the Senator from Vermont to reaffirm had all been promulgated and recognized as a part of the Constitution in every department of the Federal Government, and every State had acquiesced practically in the validity and obligatory force of those amendments. So that, being so recognized as a part of the Constitution by every department of the Government, yet it was not imagined by that court or by the learned jurist through whose lips their decree was pronounced that those three amendments in whose presence he spoke had any degree changed the relations of the powers of the State and the Federal Governments, or that either had undergone any alteration or amplification of power in regard to each other. The amendments simply contain inhibitions upon both Federal and State power, and no suggestion was made that they had wrought any change whatever in our duplex system of State and Federal Governments and their mutual relations.

"It is a familiar rule of construction," said Judge Nelson, "of the Constitution of the Union, that the sovereign powers vested in the State governments by their respective constitutions, remained unaltered and unimpaired, except so far as they were granted to the Government of the United States. That the intention of the framers of the Constitution in this respect might not be misunderstood, this rule of interpretation is expressly declared in the tenth article of the amendments, namely: 'The powers not delegated to the United States are reserved to the States respectively, or, to the people.' The Government of the United States, therefore, can claim no powers which are not granted to it by the Constitution, and the powers actually granted must be such as are expressly given, or given by necessary implication.

The General Government, and the States, although both exist within the same territorial limits, are separate and distinct sovereignties, acting separately and independently of each other, within their respective spheres. The former in its appropriate sphere is supreme; but the States within the limits of their powers not granted, or, in the language of the tenth amendment, 'reserved,' are as independent of the General Government as that Government within its sphere is independent of the States.

The relations existing between the two governments are well stated by the present Chief Justice in the case of Lane County vs. Oregon."

Observe the language: "The relations *existing*." This decision was made in the presence of these amendments, recognizing their validity and force in the Constitution and existing as they did then. This is the interpretation:

"Both the States and the United States existed before the Constitution. The people, through that instrument, established a more perfect union, by substituting a National Government, acting with ample powers directly upon the citizens, instead of the confederate government, which acted with powers greatly restricted only upon the States. But, in many of the articles of the Constitution, the necessary existence of the States, and within their proper spheres, the independent authority of the States, are distinctly recognized. To them nearly the whole charge of interior regulation is committed or left; to them and to the people, all powers not expressly delegated to the National Government, are reserved. Upon looking into the Constitution it will be carried into practical effect without the existence of the States."

Two years later, in December, 1872, after all the legislation by Congress had been accomplished in respect of their enforcement these three amendments were carefully reviewed by the Supreme Court in the cases known as the Slaughter-House cases, which are reported in 16 Wallace. The opinion of that court, as delivered by Mr Justice Miller, impressively states the character of the question and their far-reaching importance.

"We do not," said the Judge, "conceal from ourselves the great responsibility which this duty devolves upon us. No questions so far-reaching and pervading in their consequences, so profoundly interesting to the people of this country, and so important in their bearing upon the relations of the United States and of the several States to each other and to the citizens of the States and of the United States, have been before this court during the official life of any of its present members. We have given every opportunity for a full hearing at the bar; we have discussed it freely and compared views among ourselves; we have taken ample time for careful deliberation, and we now propose to announce the judgments which we have formed in the construction of those articles, so far as we have found them necessary to the decision of the cases before us, and beyond that we have neither the inclination nor the right to go."

I am glad to read this decision in the presence of one of his learned brethren [Mr. Davis, of Illinois] who since that time has fortunately become a member of this body, and whose judgment was included in that delivered by Mr. Justice Miller.

At page 76 of the same case, the court proceeds to consider the question of civil rights, privileges, and immunities of citizens of the United States to maintain those rights within the several States; and it is impossible to find words of greater force than those employed by the court. After citing the celebrated opinion, which was so often accepted by the court, of Mr. Justice Washington, in the case Cornfield vs. Coryell in 1823, as to the meaning of "the fundamental rights and privileges of the citizens," the court goes on to say:

"This definition of the privileges and immunities of citizens of the States is adopted in the main by this court in the recent case of Ward vs. The State of Maryland, while it declines to undertake on authoritative definition beyond what was necessary to that decision. The description, when taken to include others not named, but which are of the same general character, *embraces nearly every civil right for the establishment and protection of which organized government is instituted.*"

Mr. President, it was well-nigh impossible to frame language more comprehensive and embracing than that employed by the Supreme Court in this case. The jurisdiction *of the State* embraces "nearly every civil right for the establishment and protection of which organized government is instituted. They are, in the language of Judge Washington, those rights which are fundamental. Throughout his opinion they are spoken of as rights belonging to the individual *as a citizen of a State.* They are so spoken of in the constitutional provisions which he was construing. *And they have always been held to be the class of rights which the State governments were created to establish and secure.*"

Now, see what the court says as to the consequences of adopting a wild and latitudinarian construction such as is now claimed by these resolutions that by operation of these last three amendments to the Constitution our frame-work of government has been changed, and this great mass of civil rights for the protection of which State governments were ordained have been suddenly transferred wholly to Federal jurisdiction. Well might the judge say that he and his colleagues had been impressed with the gravity of this question; that they had given unlimited hearing at the bar; that they had consulted freely among themselves; and that they felt the deep responsibility of the decision which they reached because they were deciding the broad question of State existence which I say is invaded and sought to be overthrown by the resolutions of the Senator from Vermont, that the operation of those three last amendments completely changed the relations of the State and the Federal Governments as to jurisdiction over the rights and privileges of citizens.

"It would be the vainest show of learning to attempt to prove by citations of authority, that up to the adoption of the recent amendments, no claim or pretense was set up that those rights depended on the Federal Government for their existence or protection, beyond the very few express limitations which the Federal Constitution imposed upon the States—such, for instance, as the prohibition against *ex post facto* laws, bills of attainder, and the laws impairing the obligation of contracts. But with the exception of these and a few other restrictions, the entire domain of the privileges and immunities of citizens of the States, as above defined, lay within the constitutional and legislative power of the States, and without that of the Federal Government. Was it the purpose of the fourteenth amendment, by the simple declaration that no State should make or enforce any law which shall abridge the privileges and immunities *of citizens of the United States*, to transfer the security and protection of all the civil rights which we have mentioned, from the States to the Federal Government? And where it is declared that Congress shall have the power to enforce that article, was it intended to bring within the power of Congress the entire domain of civil rights heretofore belonging exclusively to the States?

All this and more must follow, if the proposition of the plaintiffs in error be sound. For not only are these rights subject to the control of Congress whenever in its discretion any of them are supposed to be abridged by State Legislation, but that body may also pass laws in advance," such as are now contemplated by these resolutions, "limiting and restricting the exercise or legislative power by the States, in their most ordinary and usual functions, as in its judgment it may think proper on all such subjects. And still further, such a construction followed by the reversal of judgments of the Supreme Court of Louisiana in these cases, would constitute this court a perpetual censor upon all legislation of the States, on the civil rights of their own citizens, with authority to nullify such as it did not approve as consistent with those rights, as they existed at the time of the adoption of this amendment. The argument we admit is not always the most conclusive which is drawn from the consequences urged against the adoption of a particular construction of an instrument. But when, as in the case before us, these consequences are so serious, so far-reaching and pervading, so great a departure from the structure and spirit of our institutions, when the effect is to fetter and degrade the State governments by subjecting them to the control of Congress, in the exercise of powers heretofore universally conceded to them of the most ordinary and fundamental character, when in fact it radically changes the whole theory of the relations of the State and Federal Governments to each other and of both these governments to the people; the argument has a force that is irresistible, in the absence of language which expresses such a purpose too clearly to admit of doubt.

We are convinced that no such results were intended by the Congress which proposed these amendments, nor by the Legislatures of the States which ratified them."

Can declarations now made as to the intent and meaning of these amendments change the right and the power and the duty of the judicial branch unaided by, unawed by, uninfluenced by, anything that a subsequent Congress may enact? That the language used by the States, the Congress and the people in 1870 shall be at the uncontrolled discretion of a majority of a succeeding Congress. No, sir, it would be, as Mr. Madison calls it, the "definition of tyranny" to suppose that judicial and legislative functions can possibly co-exist in a free land in the same body, and yet it is the judicial power of interpretation that is claimed and exercised by the spirit and language of these resolutions.

Unfortunately the Senate, largely under the guidance of the distinguished Senator from Vermont as the chairman of the Judiciary Committee, has, as is his custom and professed intention, wholly contemned the meaning and spirit of these decisions of the Supreme Court, and embarked upon a system of legislation known as "enforcement laws," without regard to the opinions of the Supreme Court, and as a consequence in the late cases of Cruikshank and of Reese, which were so fully cited and ably commented on by my honorable friend from Alabama, [Mr. Morgan,] we find that after pursuing a most exhaustive and interesting recital of the law and facts, and critically weighing both in relation to the thirteenth, fourteenth, and fifteenth amendments, the Supreme Court have reached a conclusion that the enforcement laws do not contain that "necessary and appropriate" legislation which Congress is authorized to enact to carry into effect the Constitution. Congress has not the power to pass *any law.* The laws competent for them to pass are defined by the Constitution to be those necessary and proper for carrying into execution the powers vested in the Government of the United States or in any Department or officer thereof. The decisions of the Supreme Court in the cases to which I have referred, not only dismiss the indictments which had been found under the enforcement acts for for insufficiency and imperfection, but they also declare in effect fact that no indictment can be drawn under those laws which will be sustained, because Congress had up to the time of that decision failed by "necessary and appropriate" legislation to carry into effect powers granted to them by the Constitution under the thirteenth, fourteenth, and fifteenth amendments.

Why, Mr. President, from the language giving Congress the "power to carry into effect the foregoing amendments" in has been gravely sought to establish a grant of substantive power. The Constitution as originally adopted contained it the first article the same grant both present and prospective in regard to the legislative power of Congress:

"The Congress shall have power * * * to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

That was in the eighth section of the first article of the Constitution, and no additional grant of power has been conferred by the words which have been added at the end of the thirteenth, fourteenth, and the fifteenth articles of amendment. At the end of the thirteenth amendment we read:

"Congress shall have power to enforce this article by appropriate legislation."

And at the end of the fourteenth the same frame of words, and at the end of the fifteenth the same frame of words. Now what did Mr. Hamilton say on that subject? I read from the Federalist, page 203:

"The last clause of the eighth section of the first article of the plan under consideration authorizes the National Legislature 'to make all laws which shall be *necessary* and *proper* for carrying into execution *the powers* by that Constitution vested in the Government of the United States, or in any department or officer thereof;' and the second clause of the sixth article declares 'that the Constitution and the laws of the United States made *in pursuance thereof*, and the treaties made by their authority, shall be the *supreme law* of the land; anything in the constitution or laws of any State to the contrary notwithstanding'

These two clauses have been the source of much virulent invective, and petulant declamation, against the Constitution. They have been held up to the people in all the exaggerated colors of misrepresentation; as the pernicious engines by which their local governments were to be destroyed, and their liberties exterminated; as the hideous monster whose devouring jaws would spare neither sex nor age, nor high nor low, nor sacred nor profane; and yet, strange as it may appear, after all this clamor, to those who may not have happened to contemplate them in the same light, it may be affirmed with perfect confidence that the constitutional operation of the intended government would be precisely the same, if these clauses were entirely obliterated, as if they were repeated in every article. They are only declaratory of a truth, which would have resulted by necessary and unavoidable implication from the very act of constituting a federal government, and vesting it with certain specified powers. This is so clear a proposition that moderation itself can scarcely listen to the railings which have been so copiously vented against this part of the plan, without emotions that disturb its equanimity."

But we have gavely heard in the judicial forums from the counsel of the Federal Government, and in this Chamber and by these resolutions which *are saturated with the same idea*, and are intended to claim, that there is a substantive and distinct grant of power in the language which I have read and I have best answered by showing that the power was imported into the Constitution because it grew from the very nature of the Government. That is to say, where you grant the necessary means to execute it.

It is true that we have witnessed and are to-day witnessing, in defiance of the spirit and the letter of these decisions of the Supreme Court and of the reasoning upon which they are based, the continued prosecution and punishment of men in various courts of the United States for alleged violation of the civil rights, and among others the right of suffrage of citizens. I have understood that cases of appeal are on their way now for final adjudication by the Supreme Court of the United States to test the lawfulness of this action.

Sir, those cases cannot be heard and decided too soon, because if the claim of power which has been made can be sustained the people of this country are confronted directly with the fact that the political party, whichever it may be, yours to-day, mine to-morrow, which gets possession of the government has almost a limitless and crushing power to sustain itself forever. Under such a power as claimed and exercised by these judges of the United States courts the rights of the States are as naught; they are ground to powder; they are idle words; and unless they can be rehabilitated and restored to that strength and vigor which the intent and meaning of our Federal system assigned to them, I for one will not wish to keep up the mockery any longer of claiming that States as States have a real existence.

We do know that under the pretended power of the Constitution, men convicted of the most heinous crimes, after fair trial in the courts of the State according to law, have been discharged from their imprisonment, by the usurping mandate of Federal judges and are now flaunting defiance in the face of the constituted authorities of the communities where they reside and where their crimes were committed.

Nay, the claims of power have reached this point, that those police powers plainly and essentially belonging to the State, essential to its very existence, the right to exercise which has been affirmed by every writer and by every judge, who has ever passed upon them, are taught under this system of false construction of these amendments to have been absolutely destroyed. A conspicious case is shown in one of the States in which a crime has been committed by a revenue officer, who slew a supposed violator of the revenue to prevent an assault which he alleges he anticipated upon himself, but it turned out that the man whose life he took was not the person he supposed, in other words, that he took the life of an innocent man unlawfully, who stood, in the phrase of the law "in the peace of God and of the State." He was indicted for the offense which was disclosed under the laws of the State to be murdered, yet by a writ of *habeas corpus* he has been removed from the custody of the State officials. If he is in imprisonment at all to-day he is only nominally so, but I am told he is to be seen at any time upon the streets of the town where his nominal confinement was ordered under the United States court which had assumed jurisdiction of the case.

But from the custody of the State he has not been tried, nor can he be tried by the tribunal that has usurped jurisdiction over the case. THERE IS NO LAW OF THE UNITED STATES TO PUNISH MURDER. You have statutory offenses of piracy and the like which are visited with capital punishment, but murder on land has no law enacted by the United States to meet and punish it. *Yet in this case a man who has been indicted for murder committed within the boundaries of a State has been snatched from the hands of the retributive justice of those State laws which he defied, and this by the mandate of a Federal judge, and his claim of power based on a constructive transfer of the essential police powers of the State of the Federal Government by virtue of the fourteenth amendment to the Constitution.*

We have in many of the States published, and in the adjoining State of Maryland I read daily of prosecutions continuing against men, convictions followed by fine and imprisonment for violation or interference with and the abridgment and the denial of the right of voting. There is no pretense in these cases that there was an abridgment of the right of any colored man. In Maryland I read the review of the trials and they are for not holding polling places in convenient places, for abridging the right of voting by the inconvenient locality of the polls, and under such charges men are being sentenced and deprived of their liberty and their property. The Supreme Court of the United States in these two cases of Cruikshank and Reese have clearly and emphatically excluded any such jurisdiction. They have declared that the United States had no class of voters of their own creation, that they never bestowed the right of suffrage, that they have no control over it, but that there was simply the inhibition of a State or of the United States to abridge or deny the right of suffrage by reason of one of three particular causes, the race, the color or the previous condition of servitude of the party concerned. For any and all causes except those three are no more within the power of the Federal Government by legislation to prevent or direct than they are to decide in any question between two citizens of the same State in regard to any matter of their private and local contracts. This is the language of the Supreme Court of the United States. This is their decision made I believe almost unanimously in the two cases to which I have referred. *Yet we are asked by these resolutions to continue the enactment of general laws "of the character already passed" for that purpose. I am as clear as I ever was of a proposition in my life that the oath I have taken to support the Constitution would compel me to vote against such a proposition as that.*

Therefore the whole object of these resolutions is to procure from the Senate an approval of this class of UNCONSTITUTIONAL LEGISLATION against which at the time of its enactment on this floor I struggled in vain, and to extend this usurping and fatal attempt *at the centralization of all police powers of the States in the hands of the Congress of the United States.*

Mr. PRESIDENT, THIS IS NOTHING BUT THE OVERTHROW OF OUR INHERITED SYSTEM OF GOVERNMENT. SUCH A CONSTRUCTION CANNOT BE ACCEPTED; *it would be utterly fatal to freedom and self-government.* There is no necessity for such a construction. All over this land, and I challenge the denial, there is no *law in any State* in conflict with these amendments. All over this land there is acquiescence in their provisions; all over this land there is obedience. The language, as Justice Miller says, which prohibits a State from passing a law which violates the obligation of contract and gives the Congress of the United States power to pass laws to make that effective, is just as full as that which prohibits a State from abridging the privileges and immunities of citizens. It is just as reasonable to find power to penalize with fine and imprisonment a citizen in a State *who fails to pay his promissory note as it is to punish by fine and imprisonment the man who interferes with another's right to vote at an election.*

The inhibitory language of the Constitution is the same and as full in the one case as in the other. No State shall pass a law violating the obligation of a contract. The State shall not pass a law discriminating in favor of one race or the other. Both are addressed to States as States. A law passed by a State in violation of that provision is null and void. By writ of error it can come either before the State court, or that failing in