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A Strong Judicial Protest

WR. JUSTICE FIELD CONSTRUCTS A CONSTITU TIONAL DILEMMA FOR THOSE COLLEAGUES WHO UPHELD THE RIGHT OF FED-ERAL COURTS TO TRY STATE OFFICERS FOR OFFENSES AGAINST STATE LAWS.

In the matter of Augustus F. Clarke, petitioner from Ohio; and in the mat-ter of Siebold, Tucker, Burns, Coleman and Bowers, petitioners from Maryland, upon petitions for writ of habeas corpus, a majority opinion having been read, Mr. Justice Field dissented and ob-Mr. Justice Field dissented and ob-served: I cannot assent to the decision of the majority of the Court in these cases, and I will state the reasons of my dissent. One of the six petitioners is a citizen of Ohio and the other five are citizens of Maryland. They all seek a discharge from imprisonment imposed by judgments of Federal courts for alby judgments of Federal courts for al-leged official misconduct as judges of election in their respective States. At an election held in the First Congress-ional District of Ohio in October, 1878, at which a Representative in Congress at which a Representative in Congress was voted for, the petioner from that State was appointed under its laws and acted as a Judge of Election at a pre-cinct in one of the wards of the city of minimized in the ourth and Fifth Congressional districts Maryland in November, 1878, at Cincinnati. which a Representative in Congress was voted for, the petitioners from that State were appointed under its laws and acted as judges of election at different precincts in the wards of the city of Baltimore. For alleged misconduct as such officers of election the petitioners were indicted in the Circuit courts of the United States for their respective districts, tried, convicted and sentenced to imprisonment for twelve months, and, some of the cases, also to pay a fine. The act of Congress upon which the

indictment of the petitioner from Ohio was founded is contained in section 5,-515 of the Revised Statutes, which declares that "every officer of an election at which any Rep esentative or Dele-gate in Congress is voted for, whether such officer of election be appointed or created by or under any law or authority of the United States, or by or under State, Territorial, District or municipal law or authority, who neglects or refuses to perform any duty in regard to such election required of him by any law of the United States or of any State or Territory thereof, or who violates any duty so imposed, cr who knowingly does any acts thereby unauthorized with intent to affect any such election or the result thereof, * * * shall be punished as prescribed'' in a previous section, that is, by a fine not exceeding \$1.000, or imprisonment not more than one year, or by both. The first count of the indictment charges unlawful negect on the part of the accused to perform a duty required of him by the laws of the State, in not carrying to the Clerk of the Court of Common Pleas one of the poll-books of the election, covered and sealed by the judges of election with which he was intrusted by them for that purpose. The second count charges the violation of a duty required of him by the laws of the State in per-mitting one of the poll-books, covered and sealed, intrusted to him by the judges of election to carry to the Clerk of the Common Pleas, to be broken open before he conveyed it to that officer. The law of Ohio, to which refer-ence is had in the indictment, provides that after the votes at an election are canvassed "the judges, before they disperse, shall put under cover one of the poll-tooks, seal the same and direct it to the Clerk of the Court of Common Pleas of the county wherein the return is to be made; and the poll-book thus sealed and directed shall be conveyed by one of the judges (to be determined by lot if they cannot agree otherwise) to the Clerk of the Court of Common Please of the acount at his office within Please of the county at his office within two days from the day of the election." The provisions of the act of Congress relating to the appointment of super-visors of election, the powers with which they are intrusted and the aid to be rendered them by marshals and special deputy marshals, for resisting and in-

Madison, and the adjudication has been affirmed in numerous instances since. The limitation upon Congress would seem to be conclusive of the case from Ohio. To authorize a criminal prosecu-tion in the Federal courts for an offense Ohio. against a law of a State, is to extend the judicial power of the United States to a case not arising under the Constitution or laws of the United States. But there is another view of this sub

ject which is equally conclusive against the jurisdiction of the Federal Court. The act of Congress asserts a power in-consistent with and destructive of the independence of the States. The right to control their own officers, to pre-scribe the duties they shall perform, scribe the duties they shall perform, without the supervision or interference of any other authority, and the penal-ties to which they shall be subjected for a violation of duty is essential to that independence. If the Federal Government can punish a violation of the laws of the State, it may punish obedience to them, and graduate the punishment according to its own indepunishment according to its own judg ment of their propriety and wisdom. It may thus exercise a control over the legislation of the States subversive of all their reserved rights. However large the powers conferred upon the Gov-ernment formed by the Constitution, and however numerous its restraints, the right to enforce their own laws by such sanctions as they may deem ap-propriate is left, where it was originally with the States. It is a right which has never been surrendered. Indeed, a State could not be considered as independent in any matter with respect to which its officers in the discharge of their duties could be subjected to punishment by an external authority, nor in which its officers in the execution of its laws could be subject to the super-vision and interference of others. When ever, therefore, the Federal Government. instead of acting through its own offi-cers, seeks to accomplish its purposes through the agency of officers of the States it must accept the agency with the condition upon which the officers are permitted to act. For example, the Constitution invests Congress with the invest construction of the states of the states of the the invest to be the states of the the "power to establish a uniform rule of naturalization," and this power, from its nature is exclusive. A concurrent power in the States would prevent the uniformity of regulations required on the subject. Yet Congress, in legislatthe subject. Yet Congress, in legislat-ing under this power, has authorized courts of record of the States to receive declarations under oath by aliens of their intention to become citizens, and to admit them to citizenship after a limited period of residence, upon satis-factory proof as to character and at-tachment to the Constitution. But when Congress prescribed the condition and proof upon which aliens might, by the action of the State courts, become citizens, its power ended. It could not coerce the State courts to hold sessions coerce the State courts to hold sessions for such applications, nor fix the time when they should hear the applicants, nor the manner in which they should administer the required oaths, nor reg-ulate in any way their procedure. It could not compel them to act by man-damus from its own tribunals, nor sub-ject their judges to criminal prosecution for their non-action. It could accent for their non-action. It could accept the agency of those courts only upon such terms as the States should prescribe. The same thing is true in all cases where the agency of State officers is used; and this doctrine applies with special force to judges of elections at which numerous State officers are chosen at the same time with Representa-tives to Congress. So far as the election of State officers and the registration of voters for their election are concerned. the Federal Government has confessed ly no authority to interfere. And yet the supervision of and interference with the supervision of and interference with the State regulations, sanctioned by the act of Congress, when Representatives to Congress are voted for, amount practi-cally to a supervision of and an interference with the election of State officers and constitute a plain encroachment upon the rights of the States which is upon the rights of the States which is well calculated to create irritation to-wards the Federal Government and disturb the harmony that all good and patriotic men should desire to exist be-tween it and the State governments. It was the purpose of the framers of the Constitution to create a government which could enforce its own laws through its own officers and tribunals without reliance upon those of the through its own officers and tribunals without reliance upon those of the States, and thus avoid the principal defect of the Government of the Con-federation; and they fully accomplish-ed their purpose, for, as said by Chief Justice Marshall in the McCullough case. "No trace is to be found in the No trace is to be found in the Constitution of an intention to create a dependence of the Federal Government on the governments of the States for on the governments of the states for the execution of the great power assign-ed to it. Its means are adequate to its ends, and on those means alone was it expected to ray for the accomplish-ment of its ends." When, therefore, the Federal Government desires to compel by coercive measures and puni-tive sanctions the performance of any duties devolved upon it by the Consti-tution, it must appoint its own officers and agents, upon whom its power can be exerted. If it sees fit to intrust the performance of such duties to officers of a State, it must take their agency, as already stated, upon the conditions which the State may impose. The co-operative scheme to which the ma-jority of the Court gives their sanction, by which the General Government may create one condition and the States another, and each make up for and supplement the omissions or defects in the legislation of the other, touching the same subject, with its separate pen alties for the same offense, and thus produce a harmonious mosaic of statutproduce a narmonious mossic of statu-ory regulation, does not appear to have struck the great jurist as a feature in our system of government or one that had been sanctioned by its founders. law of the United States. Here there is no pretense of such adoption. In the case from Ohio it is for the violation of a State law, not a law of the United States, that the indictment was found. The judicial power of the United States does not extend to a case of that kind the constitution defines and limits that power. The judicial power thus de-ined may be applied to new cases as they arise under the Constitution and laws of the United States, but it cannot be enlarged by Congress so as to em-brace cases not enumerated in the Con-stitution. It has been so held by this court from the earliest period. It was so adjudged in 1803 in Marbury vs,

tion, and upon the general character and purposes of that instument, would have been disregarded and overruled. These decisions do indeed, in my judgment, constitute a new departure. give to the Federal Government the wer to strip the States of the right to vindicate their authority in their own courts against a violator of their laws, when the transgressor happens to be an officer of the United States or alleges that he is denied or cannot enforce some right under their laws. And they assert for the Federal Government a power to subject a judicial officer of a State to punishment for the manner in which he discharges his duties under her laws. The power to punish at all existing, the nature and extent of the punishment must depend upon the will of Congress and may be carried to removal from office. In my judgment and I say it without intending any dis-respect to my associates, no such ad-vance has ever before been made to wards the conversion of our Federal system into a consolidated and centralized government. I cannot think that those who framed and advocated and the States which adopted the amendments contemplated any such funda-mental change in our theory of government as those decisions indicate.

The clause of the Constitution upon which reliance was placed by counsel on the argument for the legislation in question does not, as it seems to me. ive the slightest support to it. clause declares that "the times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legisla-ture thereof; but the Congress may at any time make and alter such regulations, except as to the places of choos-ing Senators." The power of congress thus conferred is either to alter the regulations prescribed by the State or to make new ones; the alteration or new creation embracing every particu-lar of time, place and manner, except the place for choosing Senators. But in neither mode nor in any respect has Congress interfered with the regulations prescribed by the Legislature of Ohio, or with those prescribed by the Legisla-ture of Maryland. It has not altered them nor made new ones. It has sim-ply provided for the appointment of of-ficers to supervise the execution of State laws, and of marshals to aid and State laws, and of marshals to aid and protect them in such supervision, and has added a new penalty for disobeying those laws. This is not enforcing an altered or a new regulation. Whatever those laws. This is not enforcing an altered or a new regulation. Whatever Congress may properly do touching the regulations, one or two things must fol-low; either the altered or the new regulation remains a State law, or it be-comes a law of Congress. If it remain a State law, it must like other laws of the State, be enforced, through its instrumentalities and agencies, and with the penalties which it may see fit to ribe, and without the supervision pre and interferance of Federal officials. If, on the other hand, it becomes a law of Congress, it must be carried into execu-tion by such officers and with such sanctions as Congress may designate. But as Congress has not altered the regulations for the election of Repre-sentatives prescribed by the Legislature of Obio or of Maryland, either as to time place or manner, nor adopted any regu-lations of its own, there is nothing for the Federal Government to enforce on the subject. In other words, the im-plied power cannot be invoked until some exercise of the express power is attempted, and then only to aid its execution. There is no express power in Congress to enforce State laws by imcongress to enforce state has by mi-posing penalties for disobedience to them; its punative power is only implied as a necessary and proper means of enforcing its own laws; nor as there any bower delegated to it to supervise the execution by State officers of State laws. If this view be correct there is no power in Congress, independently of all other considerations, to authorize the appointment of supervisors and other officers to superintends, and interfere with the election of Rep-resentatives under the laws of Ohio and Maryland, or to annex a penalty to the violation of these laws, and the action of the Circuit courts was without juris-diction and void. The act of Congress in question was passed, as it seems to me, in disregard of the object of the coned simply to give to the General Gov erament the means of its own preserva-tion against a possible dissolution from the hostility of the States to the election the hostility of the States to the election of Representatives, or from their neglect to provide suitable means for holding of the Supreme courts of several other such elections. This is evident from the language of its advocates, some of them members of the convention, when the Constitution was presented to the country for adoption. The views expressed derive further support from the fact that the constitusupport from the fact that the constitu-tional provision applies equally to the election of Senators, except as to the place of choosing them, as it does to the election of Representatives. It will not be pretended that Congress could authorize the appointment of supervisors to examine the roll of mem-bers of State legislatures and pass upon the validity of their titles, or to scruti-nize the balloting for Senators, or could delegate to special deputy marshals the power to arrest any member resist-ing and repelling the interference of the supervisors. But if Con, authorize such officers to But if Congress can with the judges of election appointed under State laws in the discharge of their duties when Representatives are voted for, it can authorize such officers to interfere with members of the State legislatures when Senators are voted for. The language of the Constitution for. The language of the Constitution conferring power upon Congress to alter the regulations of the States, or to make new regulations on the subject, is as applicable in the one case as in the

ment cannot touch them. There are remedies for their disregard of its regu-lations which can be applied without interfering with their official character as State officers. Thus, if its regula-tions for the election of Senators should not be followed the election had in not be followed, the election had in disregard of them might be invalidated; but no one, however extreme in his views, would contend that in such a case the members of the Legislature could be subjected to criminal prosecution for their action. With respect to the election of Representatives, so long as Congress does not adopt regulations of its own and enforce them through Federal officers, but permits the regula-tions of the States to remain, it must tions of the States to remain, it must depend for a compliance with them upon the fidelity of the State officers and their responsibility' to their own government. All the provisions of the law, therefore, authorizing supervisors and marshals to interfere with those in the discharge of their dutie and in the discharge of their duties, and providing for criminal prosecutions against them in the Federal courts, are, in my judgment, clearly in conflict with the Constitution. My second proposition is that it is not competent for Congress to make

not the exercise of its punitive power de-pendent upon the legislation of the States. The act, upon which the in-States. The act, upon which them a dictment of the petitioner from Ohio is founded, makes the neglect or violation of a duty prescribed by a law of the State in regard to an election at which a Representative in Congress is voted for a criminal offense. It does not say that the neglect or disregard of a duty prescribed by any existing law shall constitute such an offense. It is the neglect or disregard of any duty preneglect or disregard of any duty pre-scribed by any law of the State, present or future. The act of Congress is not changed in terms with the changing laws of the State; but its penalty is to be shifted with the shifting humors of be shifted with the shifting humors of the State legislatures. I cannot think that such punitive legislation is valid which varies not by direction of the Federal legislators upon new knowledge or larger experience, but by the direc-tion of some external authority which makes the same act lawful in one State and criminal in another, not according to the views of Congress as to its propri-ety, but to those of another body. The Constitution vests all the legislative power of the Federal Government in Congress; and from its nature this power cannot be delegated to others except as its delegation may be involved by the creation of an inferior local goverment or department. Congress can endow Territorial governments and municipal corporations with legislative powers, as the possession of such powers for certain purposes of local administra-tion is indispensible to their existence. So, also, it can invest the heads of de partments and of the army and navy with power to prescribe regulations and Its possession is implied in their crea-tion; but legislative power over subjects which come under the immediate con-trol of Congress, such as defining of-lenses against the United States, and prescribing punishment for them, can-not be delegated to any other government or authority. Congress cannot, for example, leave to the States the en-actment of laws and restrict the United States to their enforcement. There are many citizens of the United States in foreign countries, in Japan, China, In-dia and Africa. Could Congress enact that a crime against one of those states be punished as a crime against the Unit-ed States? Can Congress abdicate its functions and depute foreign countries to act for it? If Congress cannot do this with respect to offenses against those States, how can it enforce penalties for offenses against any other States though they be of our own Union? If If Congress could depute its authority in this way; if it could say that it will punish as an offense what another power enacts as such, it might do the same thing with respect to the commands of any other authority, as, for example, of the President or the head of a department. It could enact that what the President proclaims will be law; that what he declares to be offenses shall be puished as such. Surely no one will go as far as this, and yet I am unable to see the distinction in principle between the existing law and the one I suppose, which seems so extravagant and absurd. I will not pursue the subject further,

but those who deem this question at all doubtful or difficult may find something

MISS BURDETT-COUTTS.

SHE CAME INTO POSSESSION OF HER HOW FINE FORTUNE.

Miss Burdett-Coutts, known as the richest single woman in England, and as a person of such liberality in the distribution of her vast wealth as to commend her to the admiration of the civ ilized world, came into the possession of her fortune in a very interesting man-ner. She seems to prefer the simple title of Miss Coutts to that of Barone Coutts, conferred upon her by Queen Victoria in 1871, in consideration of her munificent public charities. Miss Coutts lived in rather straightened circumstanlived in Father straightened circumstan-ces during her eacher years, inheriting no property from her rich grandfather. Thomas Coutts, the eminent backer, born in 1741. At the death of his broth-er Peter, Mr. Courts assumed the entire direction of the firm, which, under his control, rose to its highest prosperity. control, rose to its highest prosperity. He was a gentleman in manners, hospitality and benevolence, and counted among his friends some of the first liter ary men and actors of his day. Soon after his settlement in London he mar ried Elizabeth Starkey, a girl of humble origin. They lived very happily togeth-er, and had three daughters-Susan, sho married the East of Gumord; Frances, who married the Marquis of Bute, and Sophia, mother of the subject of this sketch, who married Sir Francis Burdett, the member of Parliament who proposed the celebrated inquiry into the state of Coldbath Fields Prison, which resulted in the dismissal of the keeper and the complete reformation of the regulations of that prison. I He doubtless transmitted to his celebrated daughter many of his benevolent virtues. Soon after the death of Mrs. Coutts, in 1815, Mr. Coutts fell in love with the beautiful and accomplished Miss Harriet Mellon, a very popular actress in comedy in the early part of the century. This lady was born in 1775, and was so much younger than her opulent suitor that she declined the match, representing that the forty four years' difference in their ages made too great a barrier to be surmounted. The enamored millionaire, however. successfully persisted in his suit, and Miss Mellon became the happy wife of Mr. Coutts. In consequence of the violent opposition of his three daught-ers to his union with Miss Mellon, Mr. Coutts disinherited them, and made his wife

SOLE MISTRESS OF HIS COLOSSAL FORTUNE At his decease. About five years after the death of Mr. Coutts, his widow mar-Field the Duke of St. Albans, Grand Falconer of England, who was much younger than Mrs. Coutts. At her death she left the Duke an income of £50,000 a year and a life interest in some landed estates. With this excep lion, she from a delicate sense of ins. tion, she, from a delicate sense of jus-tice, bequeathed the entire fortune which she derived from Mr. Coutts, to his granddaughter, Angela Burslett, the youngest daughter of Sir Francis Bur dett

The Duchess of St. Albans in be queathing her fortune to Miss Argel-Burdett, desired her to take the name of Coutts. This lady was born in 1814 and received the vast legacy of \$20,000,000 in 1837, since which time she has been CONSPICTOUS FOR HER CHARITABLE DEEDS And humanitarian schemes. Her liber-ality in establishing the corps of nurses under Florence Nightingale, in the Crimean war, is familiar to every one. She is said to spend her entire income. \$1.000,000 or \$1,200,000 a year, in her philanthropic projects. She is an un-failing friend to the poor, a protector of, dumb animals, and founder of churches and schools. In 1847, ten years after obtaining her fortune, she ondowad a church with represented and endowed a church, with parsonage and school attached, in Rochester Row, one of the most neglected parts of London. She also established the drinking fount-ains, which are such a blessing to weary pedestrians; also the coffee saloons, which are such aids to the temperance movement. She is so much revered and beloved by

She is so much revered and beloved by all classes that the very populace, when exapperated by poverty to extreme measures of violence, protocted the home of Miss Coutts, and declared that no hand should be raised against the peace of their benefactor.

peace of their benefactor. This beneficent lady, who has spent her wealth so freely for the improve-ment of human welfare, is by no means averse to the pleasures of hite. She has just been seeking a little healthy recreation in a yacht up the Mediterranean with a party of distinguished guests, one of whom, Mr. Henry Irving, of the with a party of distinguished guests, one of whom, Mr. Henry Irving, of the Lycetum, had an opportunity given him of surveying the identical scenes which on his errand of merzy—Christ-like of surveying the identical scenes which he so forcibly portrays in enacting the part of Shylock in the "Merchant of Venice." After returning from the sunny South and re-entering the Thames, her ladyship's commodious steamer lay a week off Gravesend, where she and her companions had leisure to study the vast maritime, coasting and river traffic of the port of London, which had great interest to Coasting and river trains of the port of London, which had great interest to Miss Coutts, as the condition of those employed in it had long engaged her kindly attention. LOST FOR NINETEEN YEARS .- About LOST FOR NINFTEEN YEARS.—About nineteen years ago a young man named Nathan Hirshler disappeared from Pottsville, Pa., and it was supposed that he was the victim of the Molly Maguires. Recently his brother, Moses Hirshler, learned that a man supposed to be Na-than Hirshler, had married in New York and gone to Chicago shortly after the war. Moses at once went to Chica-on and Friday a telegram was received the war. Moses at once went to Chica-go, and Friday a telegram was received from him in that city, saying: "I have found my brother and he is alive and well." Nathan Hirshler is a prosperous man and occupies a prominent and lu-crative governmental position. He had served in the Federal army throughout the war.

KIRKLAND'S COURAGE.

TOUCHING INCIDENT OF BATTLE-WATER BULLETS BETWEEN THE LINES FOR HUMANITY SAKE.

General J. B. Kershaw, of South Carolina, who was a commander in the Confederate army, sent some days ago, the following letter to the press. Such a story of the war is indeed worthy of preservation, for the honor of humanity :

ction, every feature of which is indelibly Very truly yours, J. B. KERSHAW,

Richard Kirkland was the son of John Kirkland, an estimable citizen of Kershaw county, a plain, substantial farmer of the olden time. In 1861, he entered as private Captain J. D. Kennedy's company E, of the cond South Carolina volunteers, in which company he was a sergeant in December, 1862. The day after the sanguinary battle of Fredericksburg, Kershaw's brigade occupied the road at the foot of Marye's Hill, and the grounds about Marye's house, the scene of their desperate defense of the day before. One hundred and fifty vards in front of the road, the stone facing of which constituted the famous stone wall, lay Syke's division of regulars, United States army, between whom and our troops a murderous kirmish occupied the whole day, fatal to many who heedlessly exposed them-selves, even for a moment. The ground between the lines was bridged with the wounded, dead and dying Federals, victims of the many desperatelygallant assaults of that column of 30,-000 brave men hurled vainly against the impregnable position.

All that day those wounded men rent the air with their groans and their agonizing cries of "Water! wa-In the afternoon the General ter !" sat in the north room up stairs of Mrs. Stevens' house in front of the road surveying the field, when Kirkland came up. With an expression of incame up. dignant remonstrance pervading his person, his manner, and the tones of his voice, he said, "General! I can't stand this." "What is the matter, ergeant?" asked the General. He replied: "All night and all day I have heard these poor people crying for water, and I can stand it no longer. come to ask permission to go and ive them water.

The General regarded him for a moment with feelings of profound ad-miration, and said: "Kirkland, don't you know that you would get a bullet through your bead the moment you stepped over the wall?" "Yes, sir," he replied. "I know that; but if you will let me, I am willing to try

After a pause, the General said : Kirkland, I ought not to allow you o run such a risk, but the sentiment which actuates you is so noble that I will not refuse your request, trusting that God may protect you. You may

The sergeant's eyes lighted up with pleasure. He said : "Thank you, sir," and ran rapidly down stairs. The General heard him pause for a moment, and then return, bounding two steps at a time. He was mistaken. The sergeant stopped at the door and said : "General, can I show a white handkerchief?" The General shook his head, saying emphatically: "No, Kirkland, you can't do that." "All right, sir," he said, "I'll take the chrnces," and ran down with a bright smile on his handsome countenance.

under his head, straightened out his broken limb, spread his overcoat over him, replaced his empty canteen with a full one, and turned to another sufferer. By this time his purpose was well understood on both sides, and all well understood on both shall parts of danger was over. From all parts of "Water, field arose fresh cries of water ; for God's sake, water !" More pitcous still, the mute appeal of some who could only feebly lift a hand to say, here too, is life and suffering. For an hour and a half did this ministering angel pursue his labor of mercy, nor ceased to go and return until he relieved all the wounded on that part of the field. He returned to his post wholly unhurt. Who shall say how sweet his rest that winter's night beneath the cold stars! Little remains to be told. Sergeant Kirkland distinguished himself in bat tle at Gettysburg, and was promoted Lieutenant. At Chickamauga he fell on the battle field, in the hour of victory. He was but a youth when called away, and had never formed those n the same month General Hancock vas 55. Seymour will be 70 in May. The crop prospects in California are Imost without exception excellent. ties from which might have resulted a

terfering with whom the petitioners from Maryland have been condemned and are imprisoned, authorize the supervisors to supervise the action of the State officers from the registration of the Voters down to the close of the polls on the day of election; require the mar-shals to aid and protect them, and provide for the appointment of special deputy marshals in towns and cities of over twenty thousand inhabitants; and they invest those Federal officers with a power to arrest and take into custody persons without process more extended than has ever before in our country in time of ne of peace been intrusted to any one.

In what I have to say I shall endeavor to show : First, that is not competent for Congress to punish a State offices for the manner in which he discharges officer duties imposed upon him by the laws of the State, or to subject him in the performance of such duties to the supervision and control of others and punish him for resisting their interfer-ence; and second, that it is not competent for Congress to make the exercise the legislation of the States. There is no doubt that Congress may

of a State, but in that case adopt a lav the adopted law must be enforced as a law of the United States. Here there is no pretense of such adoption. In the case form Official in the form States, where this subject is treated with a fulness and learning which leaves nothing to be improved and nothing to be added. I am of the opinion that the act of

Congress was unauthorized and invalid; that the indictment of the petitioner from Ohio, and also from Maryland, and their imprisonment, are illegal, and that therefore, they should all be set at liberty; and I am authorized to state that Mr. Justice Clifford concurs with me.

Acklen's Constitutional Amendment.

WASHINGTON, March 15 .- Mr. Acklen of Louisiana, in the House to-day pro posed a constitutional amendment. recites the fact that the evidently grow ing tendency of the United States to ing tendency of the United States to centralization of power in the Federal Government has swakened throughout the country a just fear that in the near future the perpetuation of this Union may again be imperiled by internal commotion, thereby wreeking the peace and prosperity of this Republic and breaking down those doctrines of the perpetual union of the States finally and fully settled by the war as infring-ing upon the home rule of the States guaranteed by the Constitution, and proposes a constitutional amendment declaring that the union of these Unit-ed States shall be perpetual, and that all acts or attempts to separate or de stroy this Union shall be treason against the Federal Government and shall be

stroy this Union shall be treason against the Federal Government and shall be punished as such. States, lines and boundaries shall be inviolate; provided, that new States may be formed with the consent of the States from which they are formed, and the right of the State to make, execute and enforce its local laws by or through its chosen rep-resentatives or officials shall never be interfered with by Federal Govern-ments

BLAINE touched 50 years on last of January. Grant was 57 last April. Sherman was 56 last May. Washburn was 63 in September. Conkling was was 63 in September. Conkling was 50 in October. Garfield is in his 49th year. Bayard was 51 in October. Thur-man reached his 66th birthday in Noman reached his 66th birthday in No-vember. Hendricks was 50 in Septem-ber. Tilden was 66 this February, and in the same month General Hancock was 55. Seymour will be 70 in May.

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