

Pennsylvania Legislature

SENATE. FRIDAY, Jan. 11, 1861.

The Senate met at 11 o'clock. The Journal being read, Mr. M'CLURE, the further reading of the same was dispensed with.

PETITIONS, RESOLUTIONS, &c. PRESENTED. Mr. NICHOLS presented ten petitions from citizens of the city of Philadelphia, praying for the repeal of the 95th and 96th sections of the revised penal code.

Referred to the Judiciary Committee. Mr. SMITH presented sundry petitions from citizens of this Commonwealth, asking for a law to be passed, rendering counties in which the rescue of fugitive slaves occur, liable.

Referred to the Judiciary Committee. Also, sundry other petitions in relation to our national troubles.

Referred to the same committee. Also, by request, the memorial of Ellen E. Wells, of Philadelphia, asking for a divorce.

Referred to the same committee. Mr. CONNELL presented ten petitions praying for the repeal of the 95th and 96th sections of the revised penal code.

Referred to the same committee. Also, the memorial and remonstrance of William A. Crabb, a citizen, property owner, and tax-payer of the city of Philadelphia, and for sixteen years a member of the State Senate of Pennsylvania, remonstrating against the Legislature granting any aid, appropriation or support to any institution, company or generally called the Farmers' High School of Pennsylvania, located in Centre county.

Referred to the Committee on Finance. Mr. PARKER presented sundry petitions for the repeal of the 95th and 96th sections of the Revised Penal Code.

Referred to the Judiciary Committee. Also, a petition signed by citizens of Lycoming county, praying for a law authorizing the creation of a boom at or near Jersey Shore, in said county.

Referred to the Committee on Canals and Inland Navigation. Mr. THOMPSON presented petitions signed by citizens of Montgomery county, asking for the repeal of certain sections of the Revised Penal Code.

Referred to the Judiciary Committee. Mr. CLYMER presented a petition of the vestry of the German Evangelical Lutheran Saint John's congregation, of the city of Reading, praying for an act confirming their title to certain real estate.

Referred to the Committee on Estates and Bequests. Mr. GREGG presented a petition signed by citizens of Philadelphia, for the repeal of the 95th and 96th sections of the Penal Code.

Referred to the Committee on Judiciary. Mr. M'CLURE presented a petition of citizens of Lycoming county, asking for a boom at Jersey Shore, in said county.

Referred to the Committee on Canals and Inland Navigation. REPORTS OF STANDING COMMITTEES.

Mr. WELSH, from the Finance Committee, reported, a committee bill, entitled "An Act relative to the accounts of the Delaware and Hudson Canal Company."

Mr. FUEHLER, from the Committee to Compare Bills, made a report, which was read and recorded in the Journal.

Mr. BLOOD read in his place and presented to the Chair a bill, entitled "An Act to annul the marriage contract between Hugh Dowding and Mary, his wife."

Referred to committee on Judiciary. Also, an Act to establish a ferry across the Clarion River in Jefferson and Forest counties.

Referred to committee on Canals and Inland Navigation. ORIGINAL RESOLUTIONS.

Mr. FINNEY offered the following resolution: That a Standing Committee of five Senators be appointed, by the Speaker, to be entitled "Committee on Federal Relations."

Mr. FINNEY explained that certain questions relating to our Federal relations, coming before the Senate, had no particular reference, and he therefore considered the appointment of the Standing Committee proposed as necessary.

The resolution was then agreed to. ORDERS OF THE DAY.

Senate bill, No. 1, entitled "Joint Resolutions relative to the maintenance of the Constitution and the Union," came up in order.

The resolutions were read as follows: WHEREAS, A Convention of Delegates now assembled in the city of Charleston, in the State of South Carolina, did on the twentieth day of December, in the year of our Lord one thousand eight hundred and sixty, adopt an ordinance entitled "An Ordinance to dissolve the Union between the State of South Carolina and other States united with her under the Constitution of the United States of America," whereby it is declared that the said Union is dissolved.

And Whereas, It becomes the people of Pennsylvania, through their Representatives in the General Assembly, to make known what they consider to be the objects sought, and the obligations and duties imposed by the Constitution; be it therefore

Resolved, by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby resolved: 1st. That the Constitution of the United States of America was ordained and established, as set forth in its preamble, by the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and their posterity; and if the people of any State in this Union are not in the full enjoyment of all the benefits intended to be secured to them by the said Constitution; and if the people of any State are disregarding their inalienable rights, and are regarding the rights of their posterity as property, and are thus violating the rights of the people of any other State, full and adequate redress can and ought to be provided for such grievances through the action of Congress and other proper departments of the National Government.

2nd. That the people of Pennsylvania entertain, and desire to cherish, the most fraternal sentiments for their brethren of other States, and are ready now, as they have ever been, to cooperate in all measures needful for their welfare, security and happiness under the Constitution which makes us one people; That while they cannot surrender their love of liberty, inherited from the founders of their State, and secured to them by the Revolution, and witnessed in the history of their legislation, they nevertheless maintain now, as they have ever done, the constitutional rights of the people of the slave holding States to the uninterrupted enjoyment of their own domestic institutions.

3d. Resolved, That that we adopt the sentiments and language of President Andrew Jackson, expressed in his message to Congress on the sixteenth of January, one thousand eight hundred and thirty-three, in which he declared that "the people of a single State to dissolve themselves as well, and without the consent of the other States, from their solemn obligations, and hazard the liberties and happiness of the millions composing this Union, cannot be acknowledged; that the authority is entirely repugnant to the principles upon which the general government is constituted; and the objects which it was expressly formed to attain."

4th. Resolved, That the Constitution of the United States of America contains all the powers necessary to the maintenance of its authority, and it is the solemn and most imperative duty of the government to adopt and carry into effect whatever measures may be necessary to that end; and the faith and power of Pennsylvania are hereby pledged to the support of such measures, in any manner, and to any extent which may be required by her by the constituted authorities of the United States.

5th. Resolved, That all plots, conspiracies and warlike demonstrations against the United States in any section of the country, are treasonable in their character, and whatever power and Government is necessary for their suppression, should be applied to that purpose without hesitation or delay.

6th. Resolved, That the Governor be, and he is hereby requested, to transmit a copy of these resolutions to the President of the United States, properly attested under the great seal of the Commonwealth, and like attested copies to the Governors of the several States of this Union, and also to our Senators and Representatives in Congress, who are hereby requested to present the same to the Senate and House of Representatives of the United States.

The SPEAKER, The resolutions of the Senator from Philadelphia being yesterday before the Senate, the Senator from Huntington moved to amend the same by striking out after the word "Resolved," and inserting in lieu of resolutions which he offered, and which were read by the Clerk:

The amendment reads as follows: WHEREAS, A crisis in our national affairs has arisen out of seeming, and imaginary rather than real difficulties, resulting from the long existing controversy between ambitious partisans in the north and south, and in relation to the public mind has become inflamed, bitter jealousies engendered, fraternal strife begotten and the permanency of the Union endangered;

And Whereas, This crisis, although resulting in our opinion from an adequate cause, has in the progress of unbridled passion and fanaticism assumed an aspect so threatening as to demand an immediate expression of the prompt and decided action on the part of those who value and are impressed with the importance and necessity of preserving for ourselves and our posterity the blessings of this best of all the governments of earth, as transmitted to us by our patriotic fathers. Therefore,

Resolved, by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, that the people of Pennsylvania earnestly desire by legislation and compromise to bring back the working of the National Government to what it was in the days of the fathers of the constitution, if it can be so effected, and thereby restore harmony to the country, re-establish fraternal feeling and inculcate that love of the Union, always our pride and boast.

And Whereas, That recognizing all our territorial possessions as the common heritage of the people, we, as a measure and means of conciliation, are willing to subdivide this domain into States, and admit them into our common brotherhood as such, with or without slavery therein, according as the wishes or interests of the citizens thereof may dictate; or that the said compromise be restored, and south and north the citizens of the Commonwealth, as a measure and means of conciliation, are willing to subdivide this domain into States, and admit them into our common brotherhood as such, with or without slavery therein, according as the wishes or interests of the citizens thereof may dictate; or that the said compromise be restored, and south and north the citizens of the Commonwealth, as a measure and means of conciliation, are willing to subdivide this domain into States, and admit them into our common brotherhood as such, with or without slavery therein, according as the wishes or interests of the citizens thereof may dictate.

without waiting for the report of that committee. I will not make any reply whatever to the extraordinary statements made by the Senator from Huntington, in reference to the position of the Democratic party, and the charges made by him of that party having brought upon this country the difficulties and troubles which we are now surrounded by. These charges bear on their own refutation.

I will not spend the time of the Senate by attempting to partisan prejudices outside of this Senate, because I know very well that this is neither the time nor the place to indulge in such allusions. I am willing to let such charges go before the country, and have them decided in strict accordance with the facts, as they exist. When the time comes for the two political parties to be arraigned before the country and examined, as they probably will be, in reference to the difficulties which now distract this country, and the question is asked, which principles of the two party platforms are chargeable with the result that now exists, I am perfectly confident that the right will be determined in favor of the party to which I belong.

I will not enter into any lengthy argument relative to the resolutions proposed by either the Senator from Huntington or myself, but I will show that the resolutions which I offered are the only ones that will be voted down. The original resolutions then coming before us, I will undertake to show, the Senator from Philadelphia that there are contained in his resolutions, propositions just as hostile and inimical to the peace and dignity of the people of Pennsylvania and of this Union, as any alleged by his party to be contained in my own. I will show that the Democratic party are as acceptable to the minority on this floor, as yesterday indulged the hope that they would be.

Resolved, 3. That the people of Pennsylvania are now, as they ever have been, true to the Constitution and the Union; that in a spirit of justice and fraternity, they will exclude from their councils all measures that are calculated to irritate the passions, and to excite party feeling; that they will exhaust all peaceable and constitutional remedies to prevent the destruction of the common bond and common brotherhood, and that clearing their record of all causes of complaint, no matter from what quarter they may come, they will stand uniformly by the Executive of the United States, in all his efforts to maintain the Constitution, and to repeal certain laws, which are in violation of the general government.

Resolved, 4. That the Governor be and is hereby requested, to transmit a copy of these resolutions to the President of the United States, properly attested, under the great seal of the Commonwealth, and like attested copies to the Governors of the several States of this Union, and also to our Senators and Representatives in Congress, who are hereby requested to present the same to the Senate and House of Representatives of the United States.

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to give a slave who had escaped from his master the right to the writ of *habeas corpus*. Mr. SMITH. Can the slave have that right under the act to which the gentleman refers?

Mr. WELSH. If there is no legislation that increases with that act, and which is not needed on our statute book, what harm will it do for us to repeat it? Here is an act upon our statute book that relates to that right. The people of the South say that a slave has that right. The Senator from Philadelphia (Mr. Smith) says that he has not. Why should we not then, make that assertion upon our statute book? In reference to the seventh section, I would call the attention of the Senator from Franklin (Mr. McCune) to the fact that from the year 1780 to the year 1847, only thirteen years ago, a period of 67 years, this very same right that now I ask to be placed upon our statute book was exercised and enjoyed. I refer you to a portion of the message of the Governor where that officer takes up this whole question and discusses it with ability, and in which he says distinctly that:

"From the year 1780 to 1847, a period of 67 years, Pennsylvania, herself a free State, permitted its citizens of other States, to sojourn within her limits, with their slaves, for any period not exceeding six months, and to pass through the State in traveling from one State to another free from all molestation."

These are the ideas of a Governor of Pennsylvania, who tells us that for 67 years, a period of Pennsylvania, in the same right, existed that I now claim should exist for the people of the Southern States. And that is the reason I have referred to it in my resolutions.

Mr. M'CLURE. I have accomplished all I desired, which was to bring the Senator from York to the advocacy of his own propositions. I found a disposition on the part of gentlemen, who are continually maligning and misrepresenting Pennsylvania.

Mr. WELSH. Does the Senator refer to myself as one of those individuals?

Mr. M'CLURE. The gentleman will understand me better when I get through with my remarks. The men who have sought here to tarnish the fair fame of Pennsylvania—and I desire to place the Senator from York in that category—have yet to point us to a single wrong committed by Pennsylvania. They have demanded changes, but in no single instance referred to any single act in which we, as a State, have acted faithfully to the South. Propositions are presented to this Senate, which do not express on their face, their real purpose; and I call the attention of the Senator from York to the fact that the right of *habeas corpus*, which is justly regarded as the highest right of man, is to be stricken down by the adoption of his resolutions and that the resolutions also embrace a positive introduction of slavery into Pennsylvania.

Mr. WELSH. I do not doubt that the Senate will act understandingly with reference to the resolutions urged upon them for adoption by the Senator from York.

Mr. HALL. I am in favor of the passage of the resolutions offered by the Senator from Philadelphia (Mr. Smith). Having been a member of the committee who reported those resolutions, I am not disposed to permit any Senator to make a real question at the time they are inserted upon the record fairly and squarely on any and every question that will come before the Pennsylvania Legislature; and I intend, if possible, to have gentlemen, who differ with me on this question, put themselves thus fairly on the record. Hence, sir, I directly put the question to the Senator from York, do you recognize the right of the State of South Carolina to the right of the National Government?

Mr. WELSH. I rise to explain. The Senator put no such question to me.

Mr. HALL. The Senator from York rises to make a great many explanations.

Mr. WELSH. I will not allow the Senator from Blair to misrepresent my opinion.

Mr. HALL. The question of the recognition of the right of the State of South Carolina to the right of the National Government to coerce a State, is the very gist of the resolutions of the Senator from Philadelphia. I take it, that there is no man in the Senate of Pennsylvania reckless enough to assert the right of a State to secede; to assert that South Carolina is justified in the terrible measures to which her people have resorted. I came here prepared to stand on this point, but the Senator wishes it, thus tacitly admitting it. I will proceed to the consideration of the real question before the Senate. The Senator from Philadelphia, several days ago, introduced a series of resolutions which, with that gentleman, I had hoped would meet the hearty concurrence of every Senator upon this floor, and received the unanimous approbation of the Senate, as well as the concurrence of the coordinate branch of the Legislature. I have been disappointed, and am sorry for it. But what are the resolutions of the Senator from Philadelphia, and what do they propose? Where do our Democratic brethren stand on this question? I find before me a proposition of that Senator, to which I call the attention of the Senate, in which he desires to suspend the writ of *habeas corpus*. A proposition comes from the Senator from Blair, in which he asks for such repeal without giving any reason. I desire to know whether, if the reason presented by the Senator is the only one apparent for the repeal of this section, why he asserts its unconstitutionality.

Mr. WELSH. I did not assert that it was unconstitutional.

Mr. HALL. I have examined this subject with a great deal of care, and am now of the opinion that the repeal of this section, in the world why section 96 should remain on the statute books.

Mr. M'CLURE. I desire merely to have the Senator from York placed in the right position on this question. I find before me a proposition of that Senator, to which I call the attention of the Senate, in which he desires to suspend the writ of *habeas corpus*. A proposition comes from the Senator from Blair, in which he asks for such repeal without giving any reason. I desire to know whether, if the reason presented by the Senator is the only one apparent for the repeal of this section, why he asserts its unconstitutionality.

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Mr. M'CLURE. The gentleman will understand me better when I get through with my remarks. The men who have sought here to tarnish the fair fame of Pennsylvania—and I desire to place the Senator from York in that category—have yet to point us to a single wrong committed by Pennsylvania. They have demanded changes, but in no single instance referred to any single act in which we, as a State, have acted faithfully to the South. Propositions are presented to this Senate, which do not express on their face, their real purpose; and I call the attention of the Senator from York to the fact that the right of *habeas corpus*, which is justly regarded as the highest right of man, is to be stricken down by the adoption of his resolutions and that the resolutions also embrace a positive introduction of slavery into Pennsylvania.

Mr. WELSH. I do not doubt that the Senate will act understandingly with reference to the resolutions urged upon them for adoption by the Senator from York.

Mr. HALL. I am in favor of the passage of the resolutions offered by the Senator from Philadelphia (Mr. Smith). Having been a member of the committee who reported those resolutions, I am not disposed to permit any Senator to make a real question at the time they are inserted upon the record fairly and squarely on any and every question that will come before the Pennsylvania Legislature; and I intend, if possible, to have gentlemen, who differ with me on this question, put themselves thus fairly on the record. Hence, sir, I directly put the question to the Senator from York, do you recognize the right of the State of South Carolina to the right of the National Government?

Mr. WELSH. I rise to explain. The Senator put no such question to me.

Mr. HALL. The Senator from York rises to make a great many explanations.

Mr. WELSH. I will not allow the Senator from Blair to misrepresent my opinion.

Mr. HALL. The question of the recognition of the right of the State of South Carolina to the right of the National Government to coerce a State, is the very gist of the resolutions of the Senator from Philadelphia. I take it, that there is no man in the Senate of Pennsylvania reckless enough to assert the right of a State to secede; to assert that South Carolina is justified in the terrible measures to which her people have resorted. I came here prepared to stand on this point, but the Senator wishes it, thus tacitly admitting it. I will proceed to the consideration of the real question before the Senate. The Senator from Philadelphia, several days ago, introduced a series of resolutions which, with that gentleman, I had hoped would meet the hearty concurrence of every Senator upon this floor, and received the unanimous approbation of the Senate, as well as the concurrence of the coordinate branch of the Legislature. I have been disappointed, and am sorry for it. But what are the resolutions of the Senator from Philadelphia, and what do they propose? Where do our Democratic brethren stand on this question? I find before me a proposition of that Senator, to which I call the attention of the Senate, in which he desires to suspend the writ of *habeas corpus*. A proposition comes from the Senator from Blair, in which he asks for such repeal without giving any reason. I desire to know whether, if the reason presented by the Senator is the only one apparent for the repeal of this section, why he asserts its unconstitutionality.

Mr. WELSH. I did not assert that it was unconstitutional.

Mr. HALL. I have examined this subject with a great deal of care, and am now of the opinion that the repeal of this section, in the world why section 96 should remain on the statute books.

Mr. M'CLURE. I desire merely to have the Senator from York placed in the right position on this question. I find before me a proposition of that