



H.p. 1839:

Kentucky, always claimed as a loyal State, and exercising a powerful, but baneful influence over our early war policy, comes to us with pertinent proofs of the great necessity which asks action at our hands. The State Legislature has lately passed laws calculated to virtually make serfs of the persons that the constitutional amendment made free, and who are citizens of this Republic. The vagrant laws are so amended that a man can take a negro child and have it bound to him until the same is of age. A negro adult, if it be decided that he appears to have nothing to do, can be sold to forced labor for one year.

I might go on, sir, to read the barbarous codes which have been passed in all the rebel States. I might show how the condition of the freedmen has been growing worse under the mistaken policy that has been pursued. I might justly describe a condition of nominal freedom worse than a condition of actual slavery. But I pass on.

H.p. 1861:

The SPEAKER. The question is, "Shall this bill pass, notwithstanding the objections of the President?" On this question, the vote, according to the requirement of the Constitution, must be taken by yeas and nays.

The question was taken; and there were—yeas 122, nays 41, not voting 21; as follows:

YEAS—Messrs. Alley, Allison, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Boutwell, Brantley, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Colfax, Conkling, Cook, Cullom, Darling, Davis, Dawes, Defrees, Delano, Deming, Dixon, Dodge, Donnelly, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asabel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Ingersoll, Jenckes, Kasson, Kelley, Kelso, Ketcham, Laffin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoo, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Seofield, Shellabarger, Spalding, Starr, Stevens, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—122.

NAYS—Messrs. Ancona, Bergen, Boyer, Coffroth, Dawson, Denison, Eldridge, Finck, Glossbrenner, Aaron Harding, Harris, Hogan, Edwin N. Hubbell, James M. Humphrey, Latham, Le Blond, Marshall, McCullough, Niblack, Nicholson, Noel, Phelps, Radford, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Ross, Rousseau, Shaiklin, Sitgreaves, Smith, Strouse, Taber, Taylor, Thornton, Trimble, Whaley, Winfield, and Wright—41.

NOT VOTING—Messrs. Ames, Anderson, Bingham, Blaine, Blow, Chandler, Culver, Driggs, Dumont, Goodyear, Grider, Demas Hubbard, Johnson, Jones, Julian, Kerr, Kuykendall, Sloan, Stilwell, Warner, and Williams—21.

Mr. MOORHEAD. I believe the gentleman from Ohio has paired with two gentlemen as a two-thirds vote is required to decide this question in the affirmative.

Mr. BINGHAM. Yes, sir.

The SPEAKER said: The Clerk will call my name as a member of the House.

The Clerk called the name of SCHUYLER COLFAX, of Indiana, and Mr. COLFAX voted "ay." [Applause.]

The SPEAKER. On the question, "Shall this bill pass notwithstanding the objections of the President?" the yeas are 122 and the nays 41. Two thirds of the House having, upon this reconsideration, agreed to the passage of the bill, and it being certified officially that a similar majority of the Senate, in which the bill originated, also agreed to its passage, I do therefore, by the authority of the Constitution of the United States, declare that this bill, entitled "An act to protect all persons in the United States in their civil rights and furnish the means of their vindication," has become a law.

[This announcement was received with an outburst of applause, in which members of the House, as well as the throng of spectators, heartily joined, and which did not subside for some moments.]

H.p. 2080, Nicholson:

Thus we possess a system of government, which, to a foreign observer, may appear artificial and complex, but which to us, who are furnished with the key, is simple in the extreme. That key is the jealousy which has been apparent through all our history, for the right of each State to control its own domestic affairs, and the firmness with which that right has always been maintained.

From all these various conflicting causes harmony has been evoked; and the most perfect equilibrium is presented to our view in the equal distribution of the Federal powers, in the limitation upon State and Federal power, and the line that is drawn between them; like that huge mass of rock which nature has so nicely poised that a child's hand can disturb its balance, but a giant's strength could not move it from its base.

That nicely adjusted balance is now, by this amendment, to be permanently overthrown. The line of demarkation between State and Federal power, which has been already too much obscured by the great latitude of construction given of late to the several grants of power, is now to be entirely obliterated. The barriers erected by the Constitution to protect the States in the absolute control of their municipal affairs are now to be thrown down for the Federal Government to enter this wide domain, to roam at will, and bring prostrate at the feet of Federal power the most inestimable and most fondly cherished of all civil or political rights. That instrument, framed with such affectionate solicitude by the great and good men of the Revolution, who were actuated by nothing but devotion to the common good, is now to be changed to gratify a savage sectional hate and an inordinate lust for power. Its beauty has already been sadly marred; and it bears upon its face the recently inflicted blow of sectionalism; but this amendment will completely subvert our present system of Government, and is a long stride toward ultimate consolidation. That I am just in thus characterizing it, a brief examination of its provisions will show. It reads as follows:

ARTICLE —. The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States, and to all persons in the several States equal protection in the rights of life, liberty, and property.

The employment here, in the first clause of this amendment, of the identical language contained in article four, section two, of the Constitution, seems like an attempt to force upon it a construction that has always been denied by judicial authorities and commentators upon the Constitution; and its use here, in connection with the remaining clause, can only be intended to enlarge its signification without being sufficiently explicit to make its meaning undisputed.

The full force of that section, namely—

"The citizens of each State shall be entitled to all privileges and immunities of citizens of the several States"—

was most ably explained and illustrated by the honorable gentleman from Indiana, [Mr. KERR,] in his speech upon what is known as the civil rights bill, and he sustained his position by a full array of authorities. I will not detain the House with any further remarks upon this point, except to say, that in my opinion, and as far as I have been able to gather from authorities, this section was only intended to relieve the citizens of each State from the disabilities of aliens when removing to, or sojourning in, the several States.

But as the case of *Abbott vs. Bayley*, 6 Pick., 92, 93, expresses so fully all I would say upon this subject, and is always cited as an interpretation of this clause, I will give it somewhat at large:

"The jurisdictions of the several States as such are distinct, and in most respects foreign. The Constitution of the United States makes the people of the United States subjects of one Government *quoad* everything within the national power and jurisdiction, but leaves them subjects of separate and distinct governments. The privileges and immunities secured to the people of each State in every other State, can be applied only in case of removal from one State into another.

39th Cong., 1st Sess.

(April 7, 9, 21, 1866)

Reconstruction; Civil Rights Bill; 14th Amendment

H.p. 2081:

Now, assuming this to be the true meaning of the clause referred to, why make the Constitution repeat itself, or why empower Congress to pass laws in respect to privileges and immunities which have never in the light of this interpretation been denied?

But there can be no mistake in the meaning or intention of the latter clause. By it Congress is authorized to legislate upon the internal affairs of the several States, and in so doing, the only restraint upon its power will be its own conception of what is "necessary and proper."

The immediate object to be accomplished by this amendment I will advert to presently; but let us now consider the propriety of thus robbing the States of their right to regulate their own domestic affairs, and putting such vast power in the hands of Congress.

As I have said before, the great excellence of our Constitution consists in the separation between State and Federal power, and the assignment to each of its proper sphere.

This was originally their right, and they have reserved it in the Constitution, which forms our Union. And what is now proposed? We are seriously asked to pass this amendment, and invite the States to relinquish their freedom and independence and meekly submit to the interference by Congress in their internal order and Government. We are asked to invest Congress with authority to go peeping and prying into all the multitudinous details, which can possibly be embraced under the general term of "rights of life, liberty, and property," and regulate them by such laws as may be deemed "necessary and proper." We are called upon to erect here the bed of Procrustes, lay the several States upon it, and torture them into conformity to its proportions. While I have the power to resist, I, for one, shall never consent to so dangerous an innovation, so complete a subversion of our present form of Government.

I am not only opposed to any limitation upon the power of the States, but that opposition is increased, if possible, by the very object which is sought to be obtained. The very fact that this amendment would authorize such legislation as the "civil rights bill" is an additional reason why it should not be adopted. All the arguments urged against the passage of that bill apply with still greater force to this; though gentlemen have not waited until they could obtain constitutional authority for its passage. I certainly think that the negro should be protected in his life, liberty, and property, and believe that he has always enjoyed this protection, and that at this very moment he stands in no need whatever of those who have constituted themselves his especial friends, and clamor now so loudly for his rights. But I also contend that in giving that protection, in conferring rights and privileges, the several States should continue to exercise, as they do now, the power of declaring what shall be their extent, and by what means they shall be secured.

Now, the negro race in this country constitute such a class which is easily and well defined; and the peace and welfare of a State, especially where they are found in great numbers, demand that the radical difference between them and the white race should be recognized by legislation; and every State should be allowed to remain free and independent in providing punishments for crime, and otherwise regulating their internal affairs, so that they might properly discriminate between them, as their peace and safety might require.

For the negro is not actuated by the same motives as the white man, nor is he deterred from crime except by punishments adapted to the brutal, sensual nature which characterizes him.