MINUTES

OF THE

JOINT ASSEMBLY

OF THE

SENATE & GENERAL ASSEMBLY,

HELD ON THE 19th OF SEPTEMBER, 1866.

JOINT ASSEMBLY.

STATE OF NEW JERSEY,
ASSEMBLY CHAMBER,
TRENTON, Wednesday, September 19, 1866.

This day, at 12 o'clock, noon, the Senate and General Assembly met, in Joint Assembly, in the Assembly Chamber.

The Joint Assembly was called to order by Hon. John Hill, Speaker of the General Assembly.

Mr. Buckley moved that Hon. James M. Scovel, President of the Senate, be the Chairman of the Joint Assembly.

Which motion was unanimously agreed to.

Under the direction of the President, the Secretary called the Joint Assembly, when the following members of the Senate and General Assembly appeared and answered to the call:

Messrs. Acton, J. F. Anderson, Ayres, Beesley, Blackman, Blauvelt, Bodwell, Buckley, Clark, Coates, Cobb, Cole, Condit, Crozer, Custis, Dickeson, Edwards, Falkenbury, Fisher, Fort, Garrison, Green, Hays, Hill, Horner, Jarrard, Lathrop, Ludlam, Moore, Morris, Murphy, Nicholson, Nixon, Ramsey, Reeves, Richey, Staats, Scovel, Tyrell, Van Wagoner, Ware, W. D. Wilson, Wolseiffer, Wright —44.

Under the direction of the Chairman of the Joint Assembly, the journal of the proceedings of the Senate, on Tuesday, the 18th instant, was read by the Secretary of the Senate, and the Minutes of the votes and proceedings of the General Assembly, on the same day, were read by the Clerk of the General Assembly.

It appearing by the Journal of the Senate and by the Minutes of the votes and proceedings of the General Assembly, that in accordance with the Act of Congress entitled "an act to regulate

the times and manner of holding elections for Senators in Congress," approved July 25, 1866, did, on the second Tuesday after their meeting and organization, proceed to name a person to represent this State in the Senate of the United States, to fill the existing vacancy in the representation from this State; and that in each house, a majority of all the members elected to such house did, by a *viva voce* vote, name Alexander G. Cattell, as Senator in Congress from this State, to fill the existing vacancy.

Mr. Ludlam offered the following resolution:

Resolved, That the Legislature of New Jersey, in joint meeting assembled, hereby declare Alexander G. Cattell duly elected Senator to represent this State in the Congress of the United States to fill the existing vacancy, and that the Secretary of this Joint Assembly be directed to certify these proceedings to the Governor of the State.

Mr. Ludlam moved that the foregoing resolution be adopted.

On agreeing to which motion, the yeas and nays were ordered, nd taken as follows:

In the affirmative were,

Messrs. Acton, J. F. Anderson, Ayres, Beesley, Blackman, Blauvelt, Bodwell, Buckley, Clark, Coates, Cobb, Cole, Condit, Crozer, Custis, Dickeson, Edwards, Falkenbury, Fisher, Fort, Garrison, Green, Hays, Hill, Horner, Jarrard, Lathrop, Ludlam, Moore, Morris, Murphy, Nicholson, Nixon, Ramsey, Reeves, Richey, Staats, Scovel, Tyrell, Van Wagoner, Ware, W. D. Wilson, Wolseiffer, Wright—44.

In the negative, none.

So said motion was agreed to.

The result of the vote being stated, the Chairman of the Joint Assembly declared Alexander G. Cattell duly elected as a Senator of the United States, from this State, to fill the existing vacancy; a majority of all the members elected to each house having named and elected him.

On motion of Mr. Buckley, the Joint Assembly then arose.

Attest:

E. R. BORDEN,
Secretary of the Joint Assembly.

MINUTES

OF THE

EXTRA SESSION

OF THE

NINETIETH GENERAL ASSEMBLY

OF THE

STATE OF NEW JERSEY.

CONVENED SEPTEMBER 10, 1866.

NEWARK, N. J.:
PRINTED AT THE OFFICE OF THE EVENING COURIER.
1866.

MINUTES OF THE HOUSE,

EXTRA SESSION.

TRENTON, Monday, September 10, 1866.

At three o'clock, P. M., the House met.

The Speaker of the House being absent, on motion of Mr. Price the Hon. Charles C. Lathrop was chosen Speaker *pro tempore.*

Upon the call of the roll the following gentlemen answered to their names:

Messrs. Abbett, D. Anderson, J. F. Anderson, Blauvelt, Bodwell, Bowne, Clark, Cole, Condit, Crane, Crozer, Custis, Davenport, Demarest, Falkenbury, Fisher, Fort, Fulmer, Garrison, Green, Haring, Hays, Hoagland, Holmes, W. M. Iliff, W. J. Iliff, Jarrard, Lathrop, Lee, Moore, Murphy, Nicholson, Nixon, Perrine, Price, Ramsey, Ruh, Staats, Schenck, Thompson, Terhune, Tyrell, Van Wagoner, Ward, White, Willever, R. H. Wilson, W. D. Wilson, Yawger, Young —50.

The Speaker, Hon. John Hill, arrived and took the Chair.

The Proclamation of His Excellency, the Governor, was then read as follows:

Proclamation by Marcus L. Ward, Governor of the State of New Jersey:

WHEREAS, The Honorable Secretary of State of the United States has transmitted to me an Amendment to the Constitution of the United States, to be submitted to the Legislature of this State for its ratification; and whereas, in consequence of an existing

vacancy, New Jersey is not fully represented in the Senate of the United States, to the detriment of important interests;

Therefore, I, Marcus L. Ward, Governor of the State of New Jersey, by virtue of the power vested in me by the Constitution, do convene the Legislature of this State, hereby requiring the Senators and the Members of the General Assembly to assemble in their respective chambers at the State House, in the city of Trenton, on Monday, the Tenth day of September, at three o'clock in the afternoon.

In testimony whereof, I have hereunto set my hand, and caused the great seal of the State of New Jersey to be affixed. Done at Trenton, this thirtieth day of August, [L.S.] in the year of our Lord, one thousand eight hundred and sixty-six, and of the Independence of the United States the ninety-first.

MARCUS L. WARD.

By the Governor,

H. N. CONGAR, Secretary of State.

A message was received from the Senate, by the hands of its Secretary, as follows:

SENATE CHAMBER,
September 10, 1866.

MR. SPEAKER:

I am directed by the Senate to inform the House of Assembly that the Senate has organized under the proclamation of his Excellency, the Governor, and is now ready to proceed to business.

E. R. BORDEN, *Secretary.*

Which was read and accepted.

Mr. Nixon offered the following resolution:

Resolved, (Senate concurring) That a Joint Committee of the two Houses be appointed to wait on his Excellency, the Governor, and inform him that in compliance with his proclamation they have convened and are ready to receive any communication he may think proper to make.

Which was adopted, and a Committee on the part of the House consisting of Messrs. Nixon, Price, Ramsey, Holmes and Green were appointed.

Mr. Nixon offered the following resolution:

Resolved, That when this House adjourns it adjourn to meet at eleven o'clock to-morrow morning, and that the hour for meeting of this House be at eleven o'clock, A.M., and three o'clock, P.M., until otherwise ordered.

Which was read and adopted.

A message was received from the Senate, by the hands of its Secretary, as follows:

SENATE CHAMBER,
September 10, 1866.

MR. SPEAKER:

I am directed by the Senate to inform the House of Assembly that the Senate has concurred in the resolution of the House for the appointment of a joint Committee of the two Houses to wait upon his Excellency the Governor, and inform him that in obedience to his proclamation the two houses have convened and are now ready to receive any communication that he may think proper to make, and have appointed on the part of the Senate, Messrs. Buckley, Trusdell and Ludlam.

E. R. BORDEN,
Secretary.

Which was read and accepted.

Mr. Nixon from the Committee to wait on his Excellency the Governor, reported that they had performed that duty and that the Governor would send in a communication in writing.

A message was received from the Governor and also certified copies of the Amendment to the Constitution of the United States and the act to regulate the time of holding elections for Senators of the United States, by the hands of his private Secretary, as follows:

Gentlemen of the Senate and General Assembly:

The Constitution of New Jersey confers upon the Executive the power of convening the Legislature whenever, in his opinion, public necessity requires it. All will concede that this power should not be exercised on light and trivial considerations. There should be such reasons for the act as would commend it to the

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approval of the people and of their representatives in the Legislature. It ought to be done with a strict and jealous regard to the public interests and welfare, and, in this spirit, I have assumed the responsibility of calling this meeting of the Senate and General Assembly, constituting the Legislature of New Jersey.

The true and earnest patriot cannot regard the condition of the country without the deepest anxiety. The States recently in rebellion do not exhibit that spirit of loyalty which alone can give confidence to the public mind. Everywhere doubt and uncertainty have taken the place of reliance and trust. From many of the States recently in revolt, we hear of deeds of violence and murder, which excite our just indignation. We are assured that there the loyal and true citizens are again under the ban of that malignant spirit which incited and sustained the rebellion. We cannot wisely ignore this condition of public affairs. It must be met not by recreancy to ennobling principles; not by timidity of purpose and unsafe concessions, but by strengthening loyalty through wise and considerate statesmanship. The nation requires a prompt and final settlement of all the questions at issue, so that union, peace and prosperity, in the fullest sense, may return to the country and government.

By the Constitution of the United States the legislation required for the general security and public welfare of the people, is intrusted to Congress, and to that we must look for such a plan of adjustment as will punish treason, protect loyalty, and secure the national Government. When this plan has been devised and adopted, it will be the duty of the Executive to see that it is enforced. The claim that would unite the power to make and to enforce laws and proceedings for the public welfare is untenable under our Constitution and Government. After a full examination, and a protracted discussion, it was decided by Congress that a Constitutional Amendment, defining citizenship, uniting representation with suffrage, excluding from important offices the leaders of the rebellion, sustaining the inviolability of the debt incurred for the suppression of the rebellion, and preventing the assumption of that created by treason, was a wise, just and loyal adjustment of all the points involved.

Such an amendment to the Constitution was adopted by the required two-thirds of the Senate and House of Representatives, and it has been transmitted to me by the Secretary of State of the United States for ratification by the Legislature of this State.

I herewith enclose a copy of the Joint Resolutions passed by Congress, June 13, 1866, proposing an amendment to the Constitution of the United States, in the following words:

JOINT RESOLUTION proposing an amendment to the Constitution of the United States:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which when ratified by three-fourths of said Legislatures, shall be valid as part of the Constitution, namely:

ARTICLE XIV.—SECTION 1. All persons born or naturalized in the United States and subjected to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or an officer of the United States, or a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or

rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

I recommend the ratification of the proposed Amendment to the Constitution by the Legislature of the State of New Jersey. I regard it as the most lenient amnesty ever offered to treason, while every provision is wisely adapted to the welfare of the whole country. Its immediate adoption by three-fourths of the States will insure the settlement of all the questions at issue, and unite a whole people in the work of perpetuating and strengthening a free government.

While questions of great importance are pressing upon the attention of Congress, New Jersey—through an existing vacancy, and the protracted illness of one of its Senators—is unrepresented in the Senate of the United States. As the existing vacancy took place during the first meeting of the Legislature, no appointment could be made by me, and I regard your election of a Senator as only second in importance to the ratification of the Constitutional amendment.

Since your first meeting an Act has been passed by Congress, and approved by the President, regulating the time and manner of holding elections for Senators in Congress, a copy of which I herewith transmit. It is designed to render as certain as possible the representation of the States in the Senate, by preventing all factious opposition to the will of a majority of the Legisture.

Trusting that your deliberations and your actions may inure to the well-being of the State and nation, I commit these subjects into your hands. I feel confident that the Providence which has guarded us thus far will evoke good out of evil, and make us a people worthy of the blessings we enjoy.

MARCUS L. WARD.

TRENTON, N. J., September 10, 1866.

CONSTITUTIONAL AMENDMENT.

[OFFICIAL COPY.]

ARTICLE XIV.—SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they re-

side. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or giving aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State, shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

State of New Jersey, ss:

I, HORACE N. CONGAR, Secretary of State of New Jersey, do hereby certify that I have carefully compared the aforesaid Amendment to the Constitution of the United States, with the

copy certified to by the Secretary of State of the United States, and that the same is a true copy thereof.

In witness whereof, I have hereunto set my hand and the seal of this office, this tenth day of September, in the year of our Lord one thousand eight hundred and sixty-six.

[L. S.]

H. N. CONGAR.

[OFFICIAL COPY.]

AN ACT to regulate the times and manner of holding elections for Senators in Congress.

BE IT ENACTED *by the Senate and House of Representatives of the United States of America in Congress assembled*, That the legislature of each State which shall be chosen next preceding the expiration of the time for which any Senator was elected to represent said State in Congress, shall on the second Tuesday after the meeting and organization thereof, proceed to elect a Senator in Congress, in the place of such Senator so going out of office, in the following manner: Each house shall openly, by a *viva voce* vote of each member present, name one person for Senator in Congress from said State, and the name of the person so voted for, who shall have a majority of the whole number of votes cast in each house, shall be entered on the journal of each house by the Clerk or Secretary thereof; but if either house shall fail to give such majority to any person on said day, that fact shall be entered on the journal. At twelve o'clock, meridian, of the day following that on which proceedings are required to take place as aforesaid, the members of the two houses shall convene in joint assembly, and the journal of each house shall then be read, and if the same person shall have received a majority of all the votes in each house, such person shall be declared duly elected Senator to represent said State in the Congress of the United States; but if the same person shall not have received a majority of the votes in each house, or if either house shall have failed to take proceedings as required by this act, the joint assembly shall then proceed to choose, by a *viva voce* vote of each member present, a person for the purpose aforesaid, and the person having a majority of all the votes of the said joint assembly, a majority of all the members elected to both houses being present and voting, shall be declared duly elected; and in case no person shall receive such majority on the first day, the joint assembly shall meet at twelve o'clock, meridian, of each succeeding day during the ses-

sion of the legislature, and take at least one vote until a Senator shall be elected.

SEC. 2. *And be it further enacted*, That whenever, on the meeting of the legislature of any State a vacancy shall exist in the representation of such State in the Senate of the United States, said legislature shall proceed, on the second Tuesday after the commencement and organization of its session, to elect a person to fill such vacancy, in the manner hereinbefore provided for the election of a Senator for a full term; and if a vacancy shall happen during the session of the legislature, then on the second Tuesday after the legislature shall have been organized and shall have notice of such vacancy.

SEC. 3. *And be it further enacted*, That it shall be the duty of the Governor of the State from which any Senator shall have been chosen as aforesaid, to certify his election, under the seal of the State, to the President of the Senate of the United States, which certificate shall be countersigned by the Secretary of State of the State.

Approved July 25, 1866.

State of New Jersey, ss:

I, HORACE N. CONGAR, Secretary of the State of New Jersey, do hereby certify that I have carefully compared the above with the law as certified to by the Secretary of State of the United States, and find the same to be a true copy thereof.

In testimony whereof, I have hereunto set my hand and affixed my official seal, this tenth day of September, A. D. eighteen hundred and sixty-six. [L. S.]

H. N. CONGAR.

Which were read and on motion of Mr. Price, were laid upon the table and ordered to be printed and also to be entered in full upon the minutes.

Mr. Custis, on leave introduced a joint resolution, entitled Joint Resolution ratifying the Amendment of the Constitution of the United States.

Which was, on motion, read a first time by its title, and ordered to have a second reading.

On motion of Mr. Custis, the rules were suspended and the said joint resolution

Was taken up, read a second time, considered by sections, agreed to, and ordered to be engrossed and have a third reading.

Mr. Custis, on leave introduced a bill entitled,

An act to prescribe the time and manner of appointing Senators of the United States on the part of this State,

Which was, on motion, read a first time by its title, and ordered to have a second reading.

Mr. Custis moved that the rules be suspended and that the bill be read a second time.

Which was adopted.

Pending the second reading of the same, Mr. Price moved that the bill be laid upon the table, and be printed.

Which was agreed to.

Mr. Custis, offered the following concurrent resolutions:

1. *Resolved by the House of Assembly,* (the Senate concurring,) That we view with the utmost concern the language of the President of the United States in relation to the position and acts of Congress, as used in his reply to the address of the Committee appointed by the Philadelphia Convention of August the fourteenth, to convey to him a certified copy of the proceedings of that body; and we earnestly protest against it, not only as unparalelled and utterly indefensible in its assumptions, but as calculated to excite renewed rebellion against the constituted authorities of the Government, and indicative of a revolutionary purpose on the part of the Executive.

2. That whatever may be our views of the justice or wisdom of the acts of Congress as at present constituted, we hold its integrity and its authority within constitutional limitations, to be beyond question; and having been fully recognized and endorsed by the President himself, up to the hour of adjournment of the first session, we view with alarm his subsequent language which characterizes that body as "a body *hanging upon the verge of the Government;* a body called, or which *assumes to be* the Congress of the United States, but which is in fact a Congress of only part of the States;" and again, as "*a Congress in a minority, assuming*

to exercise powers which *if allowed to be carried out*, would result in despotism or monarchy itself;" and can only interpret it in the light of a growing purpose to usurp powers for which there is no warrant in the Constitution or in our system of government and which would be subversive of our institutions and of the liberties of the people.

3. That we deprecate the declaration of the President uttered in the hearing of all the world, that by the approval of the Freedmen's Bureau Bill as orginally passed by Congress, with the aid of the civil rights bill, *he could have proclaimed himself Dictator*, and are pained by the thought forced upon us by this language, that our Chief Magistrate is capable of weighing the chances of success in an effort to enslave the people and assume dictatorial powers; and we earnestly protest against it as derogatory of our system of Government, and our character and stability as a nation in the eyes of the world; and as calculated only to stimulate the hopes and nerve the energies of despotic powers throughout the earth, and in the same degree to blight the aspirations and thwart the efforts of the masses of the oppressed of every nation for the attainment of constitutional liberty; and we protest against it farther, as an insult to the people who have freely borne the terrible burdens of four years of war to vindicate our system of government, and to maintain the integrity of our institutions, and who in their struggle for these ends ceased not until they had triumphed in the unconditional surrender of every armed foe.

4. That we contemplate with shame and with anxiety the language of Hon. Wm. H. Seward, Secretary of State of the United States, propounding to the people of Bath Creek, Michigan, the question, "*Do you want Andrew Johnson, for President or King?*" and viewing it in connection with the language of the President above referred to, and the threats freely indulged in by prominent men and by the press that demand the unconditional admission of the States recently in armed rebellion to a position of power in the government, and bearing in mind the teachings of past experience, that they who menace revolution and anarchy have it in their hearts to verify the utterances of their lips, we deem it our highest duty to warn the people against a conspiracy to subvert the government in the interest of those who failed by force of arms to overthrow it, and to build upon the ruins of the Republic a Monarchy or an Aristocracy.

5. That whilst we will sustain the President in the exercise of every Constitutional power pertaining to his office, in the name

and in behalf of the people of the State of New Jersey, we pledge *unfaltering* resistance to any attempt to impugn the integrity of Congress as at present constituted, or to invade the constitutional prerogative of that body "*to make all laws which shall be necessary and proper for carrying into execution all powers vested by the Constitution in the government of the United States, or in any department or officer thereof*," or to any assumption by any other department of the government of the powers vested in the judical department, which, by the Constitution "*extends to all cases in law or equity, arising under the Constitution or laws of the United States.*"

6. That a properly certified copy of these resolutions be forwarded to the President and Secretary of State of the United States and to each of the representatives of this State in Congress.

Which were read and laid upon the table, and on motion of Mr. Ramsey, 500 copies were ordered to be printed,

Mr. Lathrop offered the following resolution:

Whereas, Rumors as to bribery and corruption existing as to the members of the present General Assembly detrimental to the honor of said body, and

Whereas, Such action has been had by the Grand Jury of the County of Mercer as demands examination, therefore be it

Resolved, That a committee of five members of this House be appointed by the Speaker with power to send for persons and papers to investigate the subject and report thereupon to this House, or if for want of time to do so to report to the next Assembly.

Which motion was read and adopted.

On motion adjourned.

TUESDAY, September 11th, 1866.

At eleven o'clock A. M. the House met.

Upon calling the roll the following gentlemen answered to their names.

Messrs. J. F. Anderson, Ayres, Beesley, Blauvelt, Bowne, Clark, Coates, Cole, Condit, Crane, Crozer, Custis, Davenport, Demarest, Dickeson, Edwards, Falkenbury, Fisher, Fort, Fulmer, Garrison, Green, Haring, Hays, Hill, (Speaker) Hoagland, Holmes, W. M. Iliff, W. J. Iliff, Jarrard, Lathrop, Moore, Morris, Murphy, Nicholson, Nixon, Perrine, Price, Ramsey, Ruh, Staats, Schenck, Taylor, Thompson, Terhune, Tyrell, Ward, White, Willever, W. D. Wilson, Wolseiffer, Yawger, Young—53.

Mr. Condit, offered the following resolution:

Resolved, That we do not, during our present session, entertain any bill in reference to any subject not embraced in, or recommended by the Governor's message.

Upon agreeing to which resolution, the yeas and nays were ordered, and taken as follows:

In the affirmative,

Messrs. J. F. Anderson, Ayres, Beesley, Blauvelt, Bodwell, Clark, Coates, Cole, Condit, Crane Crozer, Custis, Dickeson, Edwards, Falkenbury, Fisher, Fort, Fulmer, Garrison, Green, Hays, Hill, (Speaker) Hoagland, Holmes, W. M. Iliff, Jarrard, Lathrop, Lee, Moore, Morris, Murphy, Nicholson, Nixon, Ramsey, Staats, Terhune, Tyrell, Van Wagoner, W. D. Wilson, Wolseiffer, Yawger, Young—42.

In the negative,

Messrs. Abbett, D. Anderson, Davenport, Demarest, Haring, W. J. Iliff, Perrine, Price, Ruh, Schenck, Taylor, Thompson, Ward, White, R. H. Wilson—15.

On motion of Mr. Custis, the vote by which the bill entitled,

'An act to facilitate the time and manner of appointing Senators of the United States on the part of this State,

Was ordered to a second reading, was reconsidered, and the said bill was referred to the Committee on Judiciary.

The Committee on Engrossed Bills reported

Joint Resolution, No. 1, entitled,

Joint Resolution ratifying the Amendment of the Constitution of the United States,

As correctly engrossed.

Mr. Abbett offered the following resolution:

Resolved, That the question of the election of a United States Senator be indefinitely postponed.

Which was not agreed to.

Mr. Abbett offered the following:

Resolved, That the following question be referred to the Attorney General of the State for his legal opinion thereon: "Can *this* Legislature *under* the act entitled 'An Act to regulate the times and manner of holding election for Senators in Congress, passed July 25, 1866,' elect a United States Senator?"

Upon agreeing to which motion, the yeas and nays were ordered, and taken as follows:

In the affirmative,

Messrs. Abbett, Bowne, Crane, Davenport, Demarest, Fulmer, Haring, Hoagland, Holmes, W. M. Iliff, W. J. Iliff, Lee, Perrine, Price, Ruh, Schenck, Taylor, Thompson, Ward, White, Willever, R. H. Wilson, Yawger, Young—24.

In the negative,

Messrs. J. F. Anderson, Ayres, Beesley, Blauvelt, Bodwell, Clark, Coates, Cole, Condit, Crozer, Custis, Dickeson, Edwards, Falkenbury, Fisher, Fort, Garrison, Green, Hays, Hill, (Speaker,) Jarrard, Lathrop, Moore, Morris, Murphy, Nicholson, Nixon, Ramsey, Staats, Terhune, Tyrell, Van Wagoner, W. D. Wilson, Wolseiffer—34.

Mr. Wilson moved that the reconsideration of Joint Resolution No. 1 be postponed until next session.

Which motion was not agreed to.

The said bill was then taken up and read a third time.

Upon the question, shall this bill pass?

It was decided in the affirmative, as follows:

In the affirmative,

Messrs. J. F. Anderson, Ayres, Beesley, Blauvelt, Bodwell, Clark, Coates, Cole, Condit, Crozer, Custis, Dickeson, Edwards, Falkenbury, Fisher, Fort, Garrison, Green, Hays, Hill, (Speaker,) Jarrard, Lathrop, Moore, Morris, Murphy, Nicholson, Nixon, Ramsey, Staats, Terhune, Tyrell, Van Wagoner, W. D. Wilson, Wolseiffer—34.

In the negative,

Messrs. Abbett, Bowne, Crane, Davenport, Demarest, Fulmer, Haring, Hoagland, Holmes, W. M. Iliff, W. J. Iliff, Lee, Perrine, Price, Ruh, Schenck, Taylor, Thompson, Ward, White, Willever, R. H. Wilson, Yawger, Young—24.

On motion adjourned.

TUESDAY, September 11th, 1866.

At 3 o'clock P. M. the House met.

Upon calling the roll the following gentlemen answered to their names:

Messrs. Abbett, J. F. Anderson, Beesley, Blauvelt, Bodwell, Bowne, Clark, Coates, Cole, Condit, Crane, Custis, Davenport, Demarest, Dickeson, Edwards, Falkenbury, Fort, Fulmer, Garrison, Green, Haring, Hays, Hill, (Speaker,) Hoagland, Holmes, W. M. Iliff, W. J. Iliff, Lathrop, Moore, Morris, Nixon, Perrine, Price, Ramsey, Ruh, Staats, Schenck, Taylor, Thompson, Terhune, Tyrell, Van Wagoner, Ward, White, Willever, R. H. Wilson, W. D. Wilson, Wolseiffer, Yawger, Young—51.

Mr. Nixon from the Committee on Judiciary, reported as follows:

The Committee on Judiciary, to whom was referred the bill entitled

"An Act to prescribe the time and manner of appointing Senators of the United States on the part of this State,"

Report that in their judgment the passage of such an act at this time is not necessary or advisable.

Which was accepted.

Upon motion of Mr. Ward the speaker appointed on the committee raised under the resolution of Mr. Lathrop,

Messrs. Lathrop, Yawger, Falkenbury, Fulmer and Nixon.

Mr. Price offered the following resolutions:

Resolved, That we are opposed to the passage of the Constitutional Amendment submitted to us by the Congress of the United States for the following reasons:

1. It is wholly unnecessary, there being nothing in the present condition of any section of the country which renders it necessary.

2. Because the sole object aimed at by the Amendment is to compel the Southern States to adopt negro suffrage, or as a punishment for their refusal, to suffer a decrease of the representation which they have been entitled to since the existence of the government.

3. Because the States most deeply interested in the proposed amendment were excluded from all participation in the Congress proposing the same.

4. Because it is an attempt to vest in Congress the right to decide on qualifications of electors in the States—a subject which is now wisely and properly left to the several States to decide.

Resolved, That we heartily endorse the reconstruction policy of Andrew Johnson, President of the United States.

Resolved, That the action of the present Radical Congress in voting themselves two thousand dollars additional pay each, deserve the severest rebuke from all honest men.

Resolved, That we view with deep regret the attempt of the radical leaders to incite by speeches and the public press another civil war, in which the army is to be divided into three divisions, one of which is to do the killing; the second, armed with pine torches, to do the burning; and the third to survey the land and appropriate it to the use of radicals.

Resolved, That we believe this country ought to be governed by "white men," and that we are opposed to negro suffrage being forced upon any State or Territory by Congressional legislation.

Resolved, That the statement contained in the message of Governor Ward, that "the States recently in rebellion do not exhibit that spirit of loyalty which alone can give confidence to the public mind," is not warranted by fact and is refuted by the report of Gen. Grant, in which that officer says, that he is "satisfied that the most of the thinking men at the South accept the present situation of affairs in good faith," and that further military reports also prove the said assertion is not in accordance with the facts of the case.

Resolved, That we cordially endorse the proceedings of the Philadelphia Convention and the sentiments expressed in the resolutions and address adopted by that body.

Mr. Condit moved to refer the same to the Committee on Federal Relations.

Mr. Price moved to amend the amendment by printing them.

Upon agreeing to which motion, the yeas and nays were ordered, and taken as follows:

In the affirmative,

Messrs. Abbett, D. Anderson, Bowne, Crane, Davenport, Demarest, Fulmer, Haring, Hoagland, Holmes, W. M. Iliff, W. J. Iliff, Lee, Perrine, Price, Ruh, Schenck, Taylor, Thompson, Ward, White, Willever, R. H. Wilson, Yawger, Young—25.

In the negative,

Messrs. J. F. Anderson, Ayres, Beesley, Blauvelt, Bodwell, Clark, Coates, Cole, Condit, Custis, Dickeson, Edwards, Falkenbury, Fort, Garrison, Green, Hill, (Speaker) Jarrard, Lathrop, Moore, Morris, Nicholson, Nixon, Ramsey, Staats, Terhune, Tyrell, Van Wagoner, W. D. Wilson, Wolseiffer, —30.

Mr. Anderson moved to postpone the resolution indefinitely.

Upon agreeing to which motion, the yeas and nays were ordered, and taken as follows:

In the affirmative,

Messrs. J. F. Anderson, Ayres, Beesley, Blauvelt, Bodwell, Clark, Coates, Cole, Condit, Dickeson, Edwards, Falkenbury, Fort, Garrison, Green, Hays, Hill, (Speaker,) Jarrard, Lathrop, Moore, Morris, Murphy, Nicholson, Nixon, Ramsey, Staats, Terhune, Tyrell, Van Wagoner, W. D. Wilson, Wolseiffer, —31.

In the neagative

Messrs. Abbett, Bowne, Crane, Davenport, Demarest, Fulmer, Haring, Hoagland, Holmes, W. M. Iliff, W. J. Iliff, Lee, Perrine, Price, Ruh, Schenck, Taylor, Thompson, Ward, White, R. H. Wilson, Yawger, Young—24.

Mr. White offered the following:

Resolved, That as friends of the right of free speech we have read with sorrow that the President of the United States was rudely assailed by a mob incited by partizan opposition at Indianapolis, and prevented from addressing peaceable and orderly citizens who had there assembled to pay him the honors due to his high office; that such outrage upon the freedom of speech demand the reprobation of all good citizens.

Mr. Hays moved to lay the same upon the table.

Mr. Thompson moved a substitute for the resolution.

Mr. Ramsey moved to lay upon the table.

Which motion was agreed to.

Mr. White offered the following:

WHEREAS, the Federal Congress having at its late session denied the right of representation to States which form part of the Federal Union, and having set up in the form of amendments to the Constitution conditions to the enjoyment of that right, which in a republican form of Government should be held sacred and indestructible, it is hereby

Resolved, 1. That the exercise of any such power by Congress is unwarranted and violative of the vital principle of a free representative government, and has tended to prolong the unsettled condition of the country, and rob the people of the benefit which would flow from a complete adjustment of the national difficulties. A just regard for the principles upon which republican government rests, as well as the highest consideration for the country's welfare, require that the action of Congress should be condemned, and that every State in the Union whose people are taxed for the support of the government, whose laws they acknowledge and obey, should immediately be restored to representation.

2. That the President of the United States, in his efforts to prevent and reverse the mischievous policy of Congress, and to restore all the States to their just and proper relations to the Union, has manifested a regard for the Constitution and for the interest and peace of the country, which entitle him to the thanks of all patriotic citizens.

3. That the wild and reckless spirit of innovation, manifesting itself in the attempts that are being made to destroy the organic law of the land under the pretence of amending it, is dangerous to the perpetuity of our institutions, and if unchecked must result in the overthrow of our federal system of government; that the amendments proposed by the late Congress to the United States Constitution, are inconsistent with its entire spirit, violative of the reserved rights of Northern as well as Southern States, centralizing in their tendency, and should meet with the stern opposition of all who would preserve our government, as the fairest fabric of human government that ever rose to animate the hopes of man.

4. That the interests of the public demand the adoption of such a policy by both national and State governments, as will tend to lessen the burthen of taxation already weighing heavily upon the shoulders of the people, that this object can best be secured by placing the country once more in the condition of complete peace. so that the expenditure inseparable from an unsettled state of public affairs may be reduced, and we therefore solemnly deprecate the attempt of all agitators who for their own personal object seek to embroil the land again in strife and bloodshed.

Mr. Ramsey moved to lay upon the table.

Upon agreeing to which motion, the yeas and nays were ordered and taken as follows:

In the affirmative,

Messrs. J. F. Anderson, Ayres, Beesley, Blauvelt, Bodwell, Clark, Coate, Cole, Condit, Custis, Dickeson, Edwards, Falkenbury, Fort, Garrison, Green, Hays, Hill, (Speaker) Jarrard, Lathrop, Moore, Morris, Murphy, Nixon, Ramsey, Staats, Terhune, Tyrell, Van Wagoner, W. D. Wilson, Wolseiffer, —31.

In the negative,

Messrs. Abbett, D. Anderson, Bowne, Crane, Davenport, Demarest, Fulmer, Haring, Hoagland, Holmes, W. M. Iliff, Perrine, Price, Ruh, Schenck, Taylor, Thompson, Ward, White, Willever, R. H. Wilson, Yawger, Young—23.

Mr. Custis moved to take a recess for thirty minutes.

Which was agreed to.

The House having again resumed its business,

Mr. Custis moved that the House take another recess of thirty minutes.

Which was agreed to.

At the expiration of the thirty minutes the House resumed its business.

A message was received from the Senate, by the hands of its Secretary, as follows:

SENATE CHAMBER,
September 11, 1866.

MR. SPEAKER:

I am directed by the Senate to inform the House of Assembly that the Senate has passed Assembly Joint Resolution No. 1, entitled "Joint Resolution ratifying the amendment of the Constitution of the United States," without amendment.

E. R. BORDEN,
Secretary.

Which was accepted.

On motion Messrs. Nixon, White and Morris were appointed a special committee to convey the same to the Governor.

Mr. Lathrop offered the following concurrent resolution:

Resolved, (the Senate concurring,) That the Senate and General Assembly adjourn over until Monday evening, 17th inst., at 8 o'clock, P. M.

Which was agreed to.

A message from His Excellency the Governor, was received by the hands of his private Secretary as follows:

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
TRENTON, September 11th, 1866.

MR. SPEAKER:

I have this day approved and signed the following Joint Resolution which originated in the House of Assembly, and have delivered the same to the Secretary of the State to be filed in his office,

Joint Resolution, No. 1,

Joint Resolution ratifying the Constitutional Amendment.

MARCUS L. WARD.

A message was received from the Senate, by the hands of its Secretary, as follows:

SENATE CHAMBER,
September 11, 1866.

MR. SPEAKER:

I am directed by the Senate to inform the House of Assembly that the Senate has concurred in the following resolution from the House of Assembly,

Resolved, (Senate concurring,) that the Senate and General Assembly will adjourn until Monday evening, September 17, at 8 o'clock.

E. R. BORDEN, *Secretary*.

Which was read and accepted.

On motion the House adjourned until Monday evening, 17th inst., at 8 o'clock.

MONDAY, September 17th, 1866.

The House met at eight o'clock, P. M.

Upon calling the roll the following gentlemen answered to their names:

Messrs. Abbett, J. F. Anderson, Ayres, Beesley, Blauvelt, Bodwell, Bowne, Clark, Coates, Cole, Condit, Crane, Crozer, Custis, Davenport, Demarest, Dickeson, Edwards, Falkenbury, Fisher, Fort, Fulmer, Garrison, Green, Haring, Hays, Hill, (Speaker) Hoagland, Holmes, W. M. Iliff, W. J. Iliff, Jarrard, Lathrop, Moore, Morris, Murphy, Nicholson, Nixon, Perrine, Price, Ramsey, Ruh, Staats, Schenck, Thompson, Terhune, Tyrell, Van Wagoner, Ward, White, Willever, W. D. Wilson, R. H. Wilson, Wolseiffer, Yawger, Young—56.

On motion the House adjourned.

—o—

TUESDAY, September 18, 1866.

At eight o'clock, A. M., the House met.

Upon the call of the roll the following gentlemen answered to their names:

Messrs. D. Anderson, J. F. Anderson, Beesley, Blauvelt, Bodwell, Bowne, Clark, Coate, Cole, Condit, Crane, Custis, Davenport, Demarest, Dickeson, Edwards, Falkenbury, Fisher, Fort, Fulmer, Garrison, Green, Haring, Hays, Hoagland,

Hill, (Speaker,) Holmes, W. M. Iliff, W. J. Iliff, Jarrard, Lathrop, Lee, Moore, Morris, Murphy, Nicholson, Nixon, Perrine, Ramsey, Staats, Schenck, Taylor, Thompson, Terhune, Tyrell, Van Wagoner, Ward, Willever, R. H. Wilson, Wolseiffer, Yawger, Young—52.

The Speaker presented the following communication:

CENTRAL AGRICULTURAL SOCIETY OF NEW JERSEY,
OFFICE OF THE CORRESPONDING SECRETARY,
TRENTON, N. J., September 18th, 1866.

To the Speaker of the General Assembly of New Jersey:

SIR: By direction of the Board of Directors of the Society, I have the honor to enclose tickets of admission to their Fair, which is to commence to-day, and respectfully invite you and the members of your body to be present.

Very Respectfully,

DAVID NAAR,

Corresponding Secretary.

Which was read and the invitation accepted.

Mr. Custis, offered the following resolution:

Resolved, That we now proceed, in accordance with the provisions of the act of Congress entitled "An act to regulate the times and manner of holding elections for Senators in Congress, approved July 25th, 1866," to elect a Senator to fill an existing vacancy in the representation of this State in the Senate of the United States.

Which was read and adopted.

Mr. White presented the following Protest:

The undersigned, members of the Legislature of the State of New Jersey, hereby protest against any attempt to elect a United States Senator at the present extra session of the Legislature—

First, Because there is no legal vacancy.

Second, Because the act of Congress, approved July 25, 1866, under which it is proposed to elect, is unconstitutional.

There is no vacancy. Mr. Stockton was elected for six years, from the 4th day of March, 1865.

The Constitution of the United States provides that the times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature. The Constitution of New Jersey vests the legislative power in a Senate and General Assembly, recognizing them, however, as still the Legislature when assembled in Joint Meeting. A statute of the State prescribes that Senators shall be chosen by the Senate and General Assembly in Joint Meeting assembled. Senators have always been elected in New Jersey in Joint Meeting, and, by custom, dating before the adoption of the Constitution of the United States, the Joint Meeting have always adopted their own rules in Joint Meeting, each meeting for itself.

The journal shows that each House separately, in the usual form, unanimously adopted a resolution to go into Joint Meeting. Every member of both Houses was personally present at the time specified in pursuance of the resolutions, and voted to establish rules for the government of the body, in conformity with the uniform practice; among others, "that no candidate should be declared elected unless upon receiving a majority of all the members elected to both houses of the Legislature." At an adjourned session, every member of the Legislature elected was present in pursuance of resolutions of the houses to that effect, for the purpose of electing a United States Senator, when the vote was taken to rescind that rule, and substitute for it a rule that any candidate receiving "a plurality of the votes of the members present shall be declared duly elected."

This rule was adopted by a majority of all the members elected, every member elected present and voting. Mr. Stockton received forty votes, no one else receiving more than thirty-seven—there being four scattering votes.

Mr. Stockton was declared elected, in the presence of the whole Legislature, not one of whom expressed any dissent. The joint meeting transacted some other business, and adjourned *sine die.* The Legislature was in session some days after the adjournment of the joint meeting, and finally adjourned for the session without one word of protest.

Mr. Stockton was duly commissioned by the Governor of the State, under the great seal of the State, as provided by the act. He presented his credentials, took the requisite oath, and became a member of the United States Senate from the State of New Jersey. A protest was presented against his right to his seat, signed by a minority of the members of the Legislature. The

matter was referred to the Judiciary Committee of the Senate, composed of the most eminent lawyers and jurists of our country, five out of seven of whom were Mr. Stockton's political opponents. The Committee, after examining the question with great care, and hearing arguments on both sides, made a written report, in which they declared that the election was valid; that the sitting member was duly chosen for six years from the 4th of March, and reported a resolution to that effect. The Senate of the United States, acting judicially under the clause of the Constitution which makes it the judge of the qualifications, elections and returns of its own members, rejected a resolution offered as an amendment to the resolution reported by the Committee, declaring the election invalid, and, by a majority of one, *decided that Mr. Stockton was duly elected and entitled to his seat.*

The Constitution of the United States declares that each Senator *shall have* one vote, and that the Senate shall be the judge of the election of its own members. On the vote adopting the resolution, Mr. Stockton voted, as he had done on every question since he had been in the Senate. He was one of the *constitutional judges* of the Senatorial election from New Jersey, and, in our opinion, had no right to withhold his vote when it became necessary to defend the interests of his State. He was at least a Senator *de facto.*

The judicial question was decided. The judges all voted as they were required to do by the Constitution. The court exhausted its power. *It adjudged that Mr. Stockton was legally elected, and entitled to his seat for six years from the 4th of March,* 1865. The question was a *judicial*, not a *legislative* one, it was decided. There was no appeal, for the body which had decided were *the constitutional judges.* Their decision was final and irrevocable. If the vote cast by Mr. Stockton was illegal, every act of Congress, passed by that vote might have been reconsidered with much more propriety than the Senatorial question, for in the latter case alone the Senate sat as a court and acted judicially. The Constitution of the United States declares that "each Senator *shall* have one vote," also, that "each House *shall* be the judge of the election of its own members." When the Senate passed a resolution depriving a Senator of his vote while he yet retained his seat, and after a resolution declaring that he was not entitled to his seat had been rejected by a majority, (without his vote,) their action was clearly unconstitutional. New Jersey was deprived of a vote on a question of vital importance to her interests, in direct disregard of the plain words of the Constitution.

The act of July 25, 1866, is unconstitutional.

The first clause of the fourth section of the first article of the

Constitution of the United States, is as follows: "The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law, make or alter such regulations, except as to the place of choosing Senators."

It is well known that this clause of the Constitution was assailed in the State Conventions, on the ground that Congress might contrive the manner of holding elections so as to exclude all but their own favorites from office.

The Conventions of the States of Virginia, Massachusetts, New Hampshire, New York, Rhode Island and South Carolina accompanied their ratification of the Constitution with a solemn protest against the power of Congress over the election. They prepared amendments to the Constitution calculated to carry out their views, and recorded on their journals perpetual instructions to their representatives in Congress to urge earnestly and zealously their adoption, and to refrain from the exercise of any power inconsistent with the principles of the proposed amendment.

Notwithstanding this, after the expulsion of a Senator from New Jersey, duly elected, and the adjournment of the Legislature of the State without an election, a Senator from New Hampshire, one of the States which had given perpetual instructions to their Senators to oppose all exercise of power in Congress over the elections, introduced an act entitled "An act to regulate the times and manner of holding elections for Senators in Congress," which act was approved July 25, 1866.

We consider this act unconstitutional. Although the argument urged in the Senate of the United States against the validity of Mr. Stockton's election was, that *forty* members, not being a majority of the whole, could not elect even under a previous resolution *passed by a majority* of all the members elected, to the effect that a plurality should elect; and although by the New Jersey protest against the validity of his election, it was insisted that the Constitution of the United States required a direct vote of a majority of all the members to constitute an election, yet this act of Congress puts it in the power of *twenty-one* members in a Legislature composed of *eighty-one*, to elect a Senator! If these insistments were valid, the Constitution has been changed by act of Congress, or else the act is unconstitutional. If not valid, then Mr. Stockton was duly elected, and no vacancy now exists to be filled by the present Legislature.

But the act of Congress, in its provisions which *compel* the "members of the two houses" to convene in joint assembly for the election of a Senator, without their agreement to do so, and au-

thorize an election by a majority of that assembly, composed, as it may be, of a bare majority of the members elected to both houses, we hold to be unconstitutional.

Applying these provisions to the Legislature of New Jersey—composed of two houses, one of *sixty* and the other of *twenty-one* members—it is obvious that a Senator may be elected, not only without the consent of either house to go into a joint assembly, and when one, or even both houses have refused to do so, but by a bare majority of a majority of the whole, *not one of whom need be a member of the upper house.*

Suppose, at the time appointed for separate action, either house, or both, should not only "fail to take proceedings" to elect separately, but should also fail or even refuse to pass a resolution to go into joint assembly, at noon, of the next day, any forty-one members of both houses may voluntarily get together and elect a Senator by a bare majority of those assembled, all of whom may be members of the lower house. Such an assembly would, in no sense be a *joint assembly*, much less the *Legislature*, composed of two houses. Is it insisted that if it is not a *joint assembly* it cannot elect? and the act therefore will not bear this construction, then it must be admitted that the different provisions of the act are inconsistent with one another, for it requires only a majority of all the members of *both* Houses to be present and voting to make a valid election. But if it be admitted that a portion of the Senate must be present to make a *joint assembly*, still two Senators and thirty-nine members may elect without *the Senate* being present. And this has been held unconstitutional by the Senate of the United States, and admitted by the arguments in that body in all the contested cases which have been considered. The question has been always on this point: Were both Houses present? It has never been suggested before that an election could take place in the absence of either.

The Constitution of the United States requires Senators to be elected by the Legislatures of the several States, simply giving to Congress the power to prescribe the *time and manner* of their election.

This power is limited to mere form. The substance, the right of election, and the power of election remain to the Legislatures, and cannot be taken away or impaired. Congress cannot change the organism of the Legislatures by *compelling* a joint action of the two houses. This would not only destroy their right of separate action, but the power of separate deliberation. Much less can it prescribe a mode of proceeding which might give the whole power of election to the majority of a fraction of one house.

The Constitutional ability of electing Senators by a Joint Meeting of the two houses has always been questioned, and can only be reconciled to principle, if at all, by their separate agreement to so elect. Its best justification, perhaps its only one, is to be found in long usage. But the power to *coerce* joint action has never been claimed until now. The structure of State Legislatures, the right of the States to make and alter their own Constitutions vesting their legislative powers in one or two houses, belongs to the States, and cannot be interfered with by Congress, so long as they adhere to a "republican form of government."

The Constitution of New Jersey vests the legislative power of the State in two houses—"a Senate and General Assembly." These are the Legislature of New Jersey, and, by the plainest provisions of the Constitution, separate action is enjoined upon them. Can Congress under the formal power of prescribing the *manner* of election, dissolve this Constitutional injunction of deliberative separate action of both houses, by coercing them into a joint assembly, where the voice of one may be silenced, and a fraction of the other elect? If so, the reserved sovereignty of States, intended to be specially represented in the Senate, is a mockery.

For these and other reasons, we deny the right of the present Legislature to choose a Senator at all, and hereby enter our solemn protest against all proceedings intended to attain that end as unconstitutional, invalid, insulting to the dignity and character of our State, and the independence of her Legislature.

TRENTON, September 18, 1866.

ISAAC DEMAREST,
RALPH DAVENPORT,
SILAS YOUNG,
J. C. YAWGER,
JOHN R. CRANE,
RICHARD H. WILSON,
C. G. HOAGLAND,
ELIAS M. WHITE,
JAMES J. WILLEVER,
JOHN PERRINE,
W. D. TAYLOR,
ED. LIVINGSTON PRICE,
THOMAS J. LEE,
WM. M. ILIFF,
A. J. FULMER,
D. ANDERSON,
DANIEL HOLMES,
W. C. BOWNE,
ABRAHAM B. HARING,
F. M. WARD,
WM. J. ILIFF,
GEORGE SCHENCK,
GEO. W. THOMPSON,
LEON ABBETT.
CHARLES F. RUH.

Mr. Price moved that the Protest be entered at length upon the minutes of the House, and that absent members be allowed to enter their names upon said Protest.

Agreed to.

The House then, in accordance with the Act of Congress approved July 25th, 1866, and the aforesaid resolution offered by Mr. Custis, proceeded to vote for United States Senator, the following members being present:

Messrs. D. Anderson, J. F. Anderson, Ayres, Beesley, Blauvelt, Bodwell, Bowne, Clark, Coate, Cole, Condit, Crane, Custis, Davenport, Demarest, Dickeson, Edwards, Falkenbury, Fisher, Fort, Fulmer, Garrison, Green, Haring, Hays, Hill, (Speaker) Hoagland, Holmes, W. M. Iliff, W. J. Iliff, Jarrard, Lathrop, Lee, Moore, Morris, Murphy, Nicholson, Nixon, Perrine, Price, Ramsey, Ruh, Staats, Schenck, Taylor, Thompson, Terhune, Tyrell, Van Wagoner, Ward, White, Willever, R. H. Wilson, W. D. Wilson, Wolseiffer, Yawger, Young—57.

Upon the calling of the roll the following gentlemen voted *viva voce* for Alexander G. Cattell, of Camden County, viz:

Messrs. J. F. Anderson, Ayres, Beesley, Blauvelt, Bodwell, Clark, Coate, Cole, Condit, Custis, Dickeson, Edwards, Falkenbury, Fisher, Fort, Garrison, Green, Hays, Hill, (Speaker,) Jarrard, Lathrop, Moore, Morris, Murphy, Nicholson, Nixon, Ramsey, Staats, Terhune, Tyrell, Van Wagoner, W. D. Wilson, Wolseiffer—33.

No other person was named or voted for, and Alexander G. Cattell received a majority of the whole number of votes of the House of Assembly as Senator in Congress from the State of New Jersey, and he was declared to be, upon the part of the House, duly named and elected United States Senator from the State.

On motion, the House adjourned to meet to-morrow morning at 11 o'clock.

TRENTON, Wednesday, September 19, 1866.

At 11 o'clock, A. M., the House met.

Upon calling the roll the following gentlemen answered to their names:

Messrs. Abbett, D. Anderson, J. F. Anderson, Ayres, Beesley, Blauvelt, Bodwell, Bowne, Clark, Coates, Cole, Condit, Crane, Crozer, Custis, Davenport, Demarest, Dickeson, Edwards, Falkenbury, Fort, Garrison, Green, Haring, Hays, Hill, (Speaker) Hoagland, Holmes, W. M. Iliff, W. J. Iliff, Jarrard, Lathrop, Lee, Moore, Morris, Nicholson, Nixon, Perrine, Price, Ramsey, Ruh, Staats, Schenck, Taylor, Thompson, Tyrell, Van Wagoner, Ward, White, Willever, R. H. Wilson, W. D. Wilson, Wolseiffer, Yawger, Young—55.

The minutes of yesterday's proceedings were read and approved.

Mr. Price asked leave to introduce a bill which the Speaker decided was not in order.

Mr. Abbett moved to grant leave to introduce said bill.

Mr. Price moved to amend so as to allow the introduction of all bills on public business, which amendment was accepted by Mr. Abbett.

Upon agreeing to said motion of Mr. Abbett the yeas were ordered and taken as follows:

In the affirmative were

Messrs. Abbett, D. Anderson, Blauvelt, Crane, Crozer, Davenport, Demarest, Edwards, Fort, Garrison, Green, Haring, Hoagland, W. J. Iliff, Lathrop, Lee, Nixon, Price, Ruh, Staats, Thompson, Van Wagoner, R. H. Wilson, Young—24.

In the negative were

Messrs. J. F. Anderson, Ayres, Beesley, Cole, Condit, Custis, Falkenbury, Hays, Hill, (Speaker,) W. M. Iliff, Jarrard, Morris, Murphy, Nicholson, Tyrell, W. D. Wilson, Wolseiffer—17.

A message was received from the Senate by the hands of its Secretary, as follows:

SENATE CHAMBER, Sept. 18, 1866.

MR. SPEAKER:

I am directed by the Senate to inform the House of Assembly that the Senate has passed the following concurrent resolution:

Resolved, (House of Assembly concurring) That the two Houses of this Legislature convene in joint meeting in the Assembly chamber, on Wednesday, the 19th inst., at 12 o'clock, noon, pursuant to the law to regulate the times and manner of holding elections for Senators in Congress.

In which the concurrence of the House of Assembly is requested.

E. R. BORDEN, *Secretary*.

Which was read and concurred in.

Mr. Price on leave introduced a bill entitled,

"A further supplement to the act entitled 'An act for the punishment of crimes.'"

Which was, on motion, read a first time by its title, and ordered to have a second reading and referred to the Committee on Judiciary.

Mr. Lathrop offered the following concurrent resolution:

Be it resolved by the Senate and General Assembly of the State of New Jersey, That the Treasurer of this State be authorized to pay to the Clerk and Assistant Clerk, Sergeant-at-Arms, and Doorkeeper of the ladies gallery of the House of Assembly, the Secretary and

Assistant Secretary, Sergeant-at-Arms and Door-keeper of the ladies gallery of the Senate, and the Pages of each House, severally, a compensation for their services during the present session, from the commencement to the closing thereof, equal in proportion to the compensation they received for their services for a like time at the first or regular session of this Legislature.

Mr. Lee moved to amend by inserting the Engrossing Clerk of the House.

Mr. Van Wagoner moved to amend the amendment so as to pay the officers of each house three dollars per day.

Which was agreed to and the resolution adopted.

Mr. Nixon, from the Committee on Judiciary, presented the following report:

The Committee on Judiciary, to whom was referred the bill entitled,

"A further supplement to the act entitled 'An act for the punishment of crimes.'"

Without amendment.

Which was read.

Mr. Condit, from the same Committee, presented a minority report.

Which was read.

Upon agreeing to the majority report, the yeas and nays were ordered and taken, as follows:

In the affirmative, were

Messrs. Abbett, D. Anderson, Beesley, Blauvelt, Coates, Crane, Crozer, Davenport, Demarest, Edwards, Falkenbury, Fisher, Fort, Garrison, Green, Haring, Hoagland, Holmes, W. M. Iliff, W. J. Iliff, Lathrop, Lee, Moore, Nicholson, Nixon, Perrine, Price, Ramsey, Ruh, Staats, Taylor, Thompson, Ward, White, R. H. Wilson, W. D. Wilson, Young—37.

In the negative, were

Messrs. J. F. Anderson, Ayres, Condit, Custis, Hays, Hill, (Speaker) Jarrard, Morris, Murphy, Tyrell, Wolseiffer—11.

On motion of Mr. Custis, the Clerk was instructed to inform the Senate that the House had concurred in the resolution to go into joint meeting at 12 o'clock, noon.

The House then took a recess for the purpose of going into joint meeting, at the close of which joint meeting, the House again came to order, and the roll being called, the following gentlemen answered to their names:

Messrs. Abbett, D. Anderson, J. F. Anderson, Ayres, Beesley, Blauvelt, Bodwell, Coates, Cole, Condit, Crane, Crozer, Custis, Davenport, Demarest, Edwards, Falkenbury, Fisher, Fort, Garrison, Green, Haring, Hays, Hill, (Speaker) W. M. Iliff, W. J. Iliff, Jarrard, Lathrop, Moore, Morris, Murphy, Nicholson, Nixon, Price, Ramsey, Ruh, Staats, Taylor, Thompson, Tyrell, Van Wagoner, Ward, White, R. H Wilson, Wolseiffer, Young—46.

A message was received from the Senate by the hands of its Secretary, as follows:

SENATE CHAMBER, Sept. 19, 1866.

MR. PRESIDENT:

I am directed by the Senate to inform the House of Assembly that the Senate has concurred in the following concurrent resolution from the House of Assembly:

Resolved by the Senate and General Assembly of the State of New Jersey, That the Treasurer of this State be authorized to pay to the officers of each House, for their services at the present session, at the rate of $3.00 per day, from the commencement to the closing thereof; and the pages of each House, severally, a compensation for their services during the present session, from the commencement to the closing thereof, equal in proportion to the compensation they received for their services for a like time at the first or regular session of the Legislature.

E. R. BORDEN,

Secretary.

Which was read.

Mr. Van Wagoner offered the following resolution:

Resolved, That the minutes of the votes and proceedings of the House of Assembly, during this extra session, be referred to the Committee on Printing, with power to have the said proceedings printed.

Which was read and adopted.

Mr. Custis offered the following resolution:

Resolved, (the Senate concurring,) That this Legislature adjourn *sine die* at 1 o'clock, P. M., this day.

Upon agreeing to which, the yeas and nays were ordered and taken as follows:

In the affiirmative, were

Messrs. J. F. Anderson, Ayres, Cole, Condit, Custis, Fort, Garrison, Green, Hays, Hill, (Speaker) Jarrard, Lathrop, Morris, Murphy, Nicholson, Ramsey, Tyrell, W. D. Wilson, Wolseiffer—19.

In the negative, were

Messrs. Abbett, D. Anderson, Blauvelt, Coates, Crane, Davenport, Demarest, Edwards, Fulmer, Haring, Hoagland, W. M. Iliff, W. J. Iliff, Lee, Moore, Nixon, Perrine, Price, Ruh, Thompson, Van Wagoner, Ward, White, Willever, R. H. Wilson, Young—26.

A message was received from the Senate by the hands of its Secretary, as follows:

SENATE CHAMBER,
September 19, 1866.

MR. SPEAKER:

I am directed by the Senate to inform the House of Assembly, that the Senate has passed the following resolution:

Resolved, (Assembly concurring) That this Legislature adjourn *sine die*, at 1 o'clock, this P. M., 19th instant.

E. R. BORDEN, *Secretary*.

Which was read.

Mr. Price moved to lay said message on the table.

Upon agreeing to which motion, the yeas and nays were ordered and taken as follows:

In the affirmative, none.

In the negative, there were

Messrs. Abbett, D. Anderson, J. F. Anderson, Ayres, Bodwell, Clark, Coates, Cole, Condit, Crane, Crozer, Custis, Davenport, Demarest, Edwards, Falkenbury, Fisher, Fort, Garrison, Green, Haring, Hays, Hill, (Speaker) Hoagland, W. M. Iliff, W. J. Iliff, Jarrard, Lathrop, Lee, Moore, Morris, Murphy, Nicholson, Nixon, Perrine, Price, Ramsey, Ruh, Staats, Taylor, Thompson, Tyrell, Ward, White, Willever, R. H. Wilson, W. D. Wilson, Wolseiffer, Young—50

So said motion was not agreed to.

Mr. Ramsey moved to concur in the resolution which motion was agreed to.

Mr. Lathrop offered the following resolution:

Resolved, (Senate concurring,) That a committee of three of the House, and two of the Senate, be appointed to call upon the Governor, and inform him that the Senate and Assembly are now ready to adjourn, provided he has no business to present to them.

Which was adopted.

And Messrs. Lathrop, Demarest and Blauvelt were appointed said committee.

Mr. Price asked leave to withdraw the bill introduced by him this morning.

The committee to wait upon the Governor, reported that they had fulfilled the duty assigned them, and that he had no further communications to make.

Mr. Price moved that the thanks of the House be tendered the Speaker, for his able and impartial discharge of his duty.

Which motion was agreed to.

The Speaker then addressed the House as follows:

Gentlemen of the House of Assembly:

I congratulate you on the pleasant and harmonious manner in which the business of the session has been transacted. However we may have differed in our opinion in relation to the business that has been before us, yet good feeling has generally prevailed.

The great measures upon which we have acted, will, no doubt, meet the hearty approval of the majority of the people of our State; and secure for New Jersey her continued high position among the States of the Union.

I thank you, gentlemen, for your kindness and courtesy always extended towards me. May we return to our homes with happy recollections of the associations formed here. Prosperity and happiness attend you, and the blessings of Almighty God follow you all your days.

A message from the Senate was received by the hands of its Secretary, as follows:

SENATE CHAMBER,
September 19, 1866.

MR. SPEAKER:

I am directed by the Senate to inform the House of Assembly, that the Senate has concurred in the following concurrent resolution:

Resolved, That a committee of three of the House and two of the Senate, be appointed to wait upon the Governor, and inform him that the Senate and Assembly are now ready to adjourn, pro-

vided he has no business to present to them, and have appointed Messrs. Robins and Ludlam on the part of the Senate.

E. R. BORDEN, *Secretary.*

The hour of 1 P. M., having arrived, the members of the House, preceeded by their Speaker and Clerk, proceeded to the Senate chamber, and the two Houses then adjourned *sine die.*

G. B. COOPER, *Clerk.*