

volunteered the information that they would willingly forego the pleasure of addressing the House upon the subject if it could be kept in the background, and not brought forward this session. He informed the speaker that twenty-five republicans had already decided to vote against their party on the silver proposition, and he assured the gentleman that nearly as many more would join them if the overt attempt were made to delay the measure.

This brought the speaker to terms and the conference was closed with a general understanding that the bill should be brought up on Wednesday and that Mr. Payson and his friends would stand with their party against the Senate amendments, and that the compromise outlined above should be insisted upon by the House conference.

THE BROKEN BULWARKS.

No greater amount of legal learning than any American citizen of ordinary intelligence may easily acquire is needed in order to enable a person to comprehend the elementary principles of the Constitution of the United States. The philosophy of constitutional law is a branch of political science which requires study on the part of him who would become a proficient expounder of it; but the simple guarantees of liberty contained in the basic law of this country can be understood and appreciated by the common people as well as by the learned and profound lawyer, or the able statesman.

I am an American citizen of the class who believe with the late Hon. Jeremiah S. Black, that in the maintenance of strict constitutional morality lies the safety of a republic. By constitutional morality is meant conformity to the principles and spirit of the nation's organic law. I believe it as dangerous, from a political standpoint, for a free people to trespass upon the charter of their liberties, as it is, from a religious standpoint, for a man to violate the decalogue. I therefore view with forebodings of a gloomy character, the apathetic indifference, the utter lack of patriotism, with which the American people suffer their national charter to be torn into shreds.

To show that this expression is not too strong to appropriately describe the process which the American Constitution has been for some years passing through, I will make a few quotations, from it, and refer to the action of the government in reference to the principles cited. I will make my quotations in the order in which they appear in the instrument, rather than in accordance with the chronological order in which the events to be spoken of occurred.

Subdivision 1, Section II, Article I:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States."

This provision is the one which makes the House of Representatives

a body literally and directly representative of the masses of the people. It involves the vital and popular right of the people to elect, every two years, to the national legislature, such law makers as will best reflect their views and most faithfully carry out their wishes. In debates and votes that have occurred in the House, both before and after the war, on questions of expulsion, the proposition has been maintained that a congressional district had a right which could not be questioned nor abridged, to select as its representative upon the floor of the national House, any man in whom it might see fit to repose that power and honor; and that immorality, or crime even, committed by the man so chosen, would not justify denying to him his seat, provided his guilt was incurred before his election. It has been further and abundantly established that immorality or the commission of any crime not accounted infamous, occurring subsequent to his election, will not justify the denial of a seat to a representative elect, nor his expulsion after being seated. Whether or not the commission of an infamous crime after his election, by a member elect, would be sufficient justification for refusing to seat him, or for expelling him, is a question not fully settled in the American Congress; but the weight of authority and logic seems to incline to the negative, mainly for the reason that it is the province of the courts, and not of either house of Congress to punish for crime, except in cases of impeachment provided for by the Constitution.

This vital principle of our governmental fabric was violated when the House of Representatives denied a seat to the man whom the people of Utah, by a vote of more than ten to one, had chosen to represent them in that body. The case of Hon. George Q. Cannon is here referred to.

Subdivision 3, Section IX, Article I:

"No bill of attainder, or *ex post facto* law, shall be passed."

A bill of attainder is one which declares an act committed prior to its passage, an offense punishable under its provisions. The laws enacted by Congress for the suppression of polyamy, as they have been interpreted and administered by the courts, have operated as bills of attainder. Under them men have been punished for maintaining relations which at the time they were established, were not in violation of any law. This punishment has involved the loss of the privileges of citizenship.

An *ex post facto* law is one enacted for the purpose of being applied to a state of facts which existed prior to its passage, affecting rights which could not have been affected in the manner desired by any law existing at the time they accrued. The provision of the Edmunds-Tucker law under which real estate, acquired by the Church of Jesus Christ of Latter day Saints before any limit on the amount of such property it might own, was fixed by Congress, is now being

eschewed, is a flagrant instance of an *ex post facto* law, provided judicial interpretations of it, heretofore given, shall finally be sustained.

Subdivision 3, Section II, Article III:

"The trial of all crimes, except in cases of impeachment, shall be by jury."

The word "jury" is here used with its English common law meaning, and signifies twelve impartial men, chosen by lot, from the vicinage within which the defendant resides, or the crime was committed. By a process which it is not necessary to describe here at length, the sacred institution of trial by jury, guarded for ages with jealous care by the Anglo Saxon race, has been practically abolished in portions of this country.

Subdivision 1, Section III, Article III:

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

Upon the theory that a certain body of citizens of this Republic are guilty of treason, pains and penalties have been inflicted upon them by Congress and the courts, and legislation enacted against them, in violation of the Constitution, has been judicially held justifiable on the ground of their alleged disloyalty. But no attempt has ever been made to convict a single person among them of treason, as defined in the nation's supreme law; and it is a matter of notoriety that no such attempt could possibly succeed were a fair trial of the issue had.

Subdivision 1, Section II, Article IV:

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

Under existing laws, if a citizen of a given State shall pass from that State into an adjoining or neighboring subdivision of the domain of the United States, he may find a complete revolution to have been made, in consequence of his removal, in his "privileges and immunities" as an American citizen. Thus in Oregon a man may belong to any religious organization he may prefer, and suffer no political disadvantage thereby; but should he cross the line into Idaho, he may find himself in the position of an alien so far as the rights and privileges of citizenship are concerned.

Subdivision 2, Section III, Article IV:

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the Territory or other property of the United States."

This provision has been so stretched and distorted as to provide for the present territorial system, which, obviously, was not contemplated by it at all. Lately it has been strained to mean that Congress may exercise unlimited power over the territories, regardless of constitutional limitations. Under such a con-