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CONGRESS.

SPEECH OF MR. CLAYTON,

OF GEORGIA,

On the contested election of Messrs. Moore and Letcher, of Kentucky, in the House of Representatives, on Thursday, May 22, 1834.

Mr. Speaker: Although I feel some anxiety to offer a few reflections to the House on this question, yet I am much discouraged by the great apathy which has prevailed during its previous discussion. Can it be possible the case is prejudged? If so, I cannot flatter myself that I shall gain the attention of members, nor indeed ought I to look for it, after witnessing the indifference manifested towards those who have gone before me, and who were much better prepared to enlighten the House, than can be possibly expected from me. Nevertheless, I am urged, by a sense of duty, to this ungracious task, relying upon the hope, that as ours is a Government regulated by public opinion, I may be listened to in another quarter, though, in this place, I fail in that desirable object.

Mr Speaker, I had calculated that this subject would excite a deep interest. I had looked to this investigation as one necessarily fraught with intense concern. What is it? I consider it nothing short of the question, whether ours is in truth a representative government; whether the great and often boasted privilege of suffrage in this country, is any thing but a name; in fine, whether the right to choose the representative, belongs to the people or to this House? Sir, can any question be more important? It outstrips all others in its consequences, because all others are made to depend upon the true depository of this immense power. The case, then, presents itself under a two-fold aspect; first, in reference to the rights of the people; and, secondly, in relation to those of the contending parties. In this last view, we are called on to exercise a judicial function, to pass a judicial judgment; and this is a character so pure, so elevated above all the impulses of passion and feeling, that we should approach it with the utmost desire to ascertain the justice, and nothing but the justice, of the case. We should consider ourselves as sitting in the character of judges or jurors; and, if suitably impressed with their high responsibility, we could not remain inattentive to the argument of a cause involving such grave and delicate rights. What would you think of a Judge, who should read newspapers all the time of a legal discussion? What would you think of a jury who were permitted to pass in and out from their box during the investigation of a case, in which they were finally to pass upon the important rights of the parties? Shall we, then, exact, in another tribunal, if not from a sincere consciousness of propriety, at least in respect for decorum, an impartial and attentive hearing; and yet, in a similar capacity ourselves, manifest a total indifference to all such obligations? I hope not.

I shall first call the attention of the House to this provision of the Constitution. It is the first step in the authority upon which they take jurisdiction of the case. "Each House shall be the judge of the elections, returns, and qualifications of its own members." I pass from this to another provision, upon which the contested election before us, is to be *judged*. "The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof." In the application of this provision to the case in issue, we shall be able to narrow down the question to the simple consideration of the "manner," for about the "time" and "place" of "holding the election," there is no dispute. It is now reduced to a mere point. Before I proceed to the argument, I must state the principles which should govern this body, in *judging* of the elections brought before it for decision. I lay down this position, that as the right of suffrage is a common right, involving the highest attributes of liberty, all laws regulating its exercise, should be construed liberally, and the utmost latitude allowed, to give effect to the right, provided it produces no injury to the people to whom it belongs, or to the parties it designs to invest with a trust. We should the rather constitute ourselves into a court of equity, to do what the law would have done, if it could have foreseen the mischiefs, than into a court of law, to decide the case according to strict technicalities. Neither should we be governed by the subtleties of special pleading, much less the arts and refinements of quibbling minds. We should not consider ourselves as trying a case for a horse or a loom, in which the ingenuity of the learned profession wastes itself in shifts and quirks, and is better satisfied with its triumphs when they are obtained by tricks.

This election is contested upon two grounds: 1st. A non-compliance with the law of Kentucky, regulating the "manner" of holding the election; and, 2d. The reception of illegal votes. The first is, for the present, the only subject for consideration, as the amendment of the gentleman from Pennsylvania, brings that point alone into view. No State can legislate in relation to the holding of elections, under the provision of the Constitution last quoted, but as to time, place, and manner—any thing beyond these is void, and has been wholly disregarded, as appears by several decisions, but especially in the case of Meade and Spalding. The State of Georgia, in its election law, had required that the returns of the election should be made in twenty days. It appeared, that within the twenty days, the returns had given Meade the highest number of votes, and the Governor accordingly gave him the certificate of election; but it also afterwards appeared, that upon the coming in of further returns, after the twenty days had expired, Spalding was elected—and, upon contesting the seat, obtained it without any difficulty. I refer to this case to establish the position, that any legislation of a State, *out* of the time, place, and manner of holding the election, is of no manner of obligation upon this House. With regard, then, to the "manner" of holding the election, for this, as I stated before, is all that we have now to consider, we must carefully distinguish it from the qualification of voters. Qualification is one thing; manner is another. The first relates to the individual right of the voter—the other in giving effect to that right. If he votes without qualification, the *vote* is void, and will be expunged without prejudice to the other legal votes. If he votes with qualification, but contrary substantially, not formally, to the "manner" of the election, as directed by law, then the *election* is void, not in part but wholly, for a breach of the law must affect all parties alike; it cannot enure to the advantage of one and the injury of another, because it is not the fault of one more than another.

This brings us to the consideration of the election law of Kentucky, which specifies the "manner" in which elections shall be held in that State. It enacts that the sheriff of each county shall advertise, at least one month before the first Monday in August, in every year, the time and place of holding the election, and what offices are to be filled; and that the sheriff, or other presiding officer, shall, on the day of election, open the poll book by ten o'clock in the morning, and continue the same open at LEAST one hour before sun-set each day. It directs the county court of each county, at their session next preceeding the election, to appoint two of their own body as judges of the election, who are to hold their offices for one year, and a proper person to act as clerk; but in case the county court should not appoint, or any of the persons appointed should fail to attend, the sheriff shall immediately preceding any election, appoint proper persons to act in their stead. It requires the judges of election, and the clerk, before proceeding to act as such, to take the oath prescribed by the Constitution; and expressly declares, that "they shall attend to the receiving the votes until the election is completed, and a fair statement made of the whole amount thereof;" and requires that "the persons entitled to suffrage shall, in the presence of said judges and sheriff, vote personally and publicly, *viva voce*. Unless the sheriff, or any one of the judges, shall know the person offering to vote to be entitled to suffrage, the clerk is directed to administer to him the oath, that he believes he is twenty-one years of age; that he has resided two years in the State, or in the county one year *last past*, and that he has not previously voted at that election; or one or more parts of the oath may be administered, so as to remove the doubts of the sheriff or judge. This is the manner. Now, it is said by the Committee on Elections to have been violated in *two particulars*. 1st. That on the first day of the election the sheriff appointed a person to act in the place of one of the judges appointed by the court, who had not arrived; and proceeded to open and hold the election before 10 o'clock, to wit: at 9 o'clock, many of the voters being assembled who, in consequence of the prevalence of the cholera, were anxious to vote and return home. At 10 o'clock the judge appointed by the court appeared, took his seat, and the sheriff's judge retired. It is contended that all the votes given before ten should be rejected; twenty-five had been polled, twenty-two of which were for Mr. Letcher; consequently they have taken three from Mr. Moore's poll and twenty-two from Mr. Letcher's. 2dly. On the second day of the election, the sheriff was called home by the extreme illness of his wife by cholera, of which she died, and he appointed an individual to take his place till his deputy could arrive, which was in the course of one or two hours. It is also contended that all the votes given in between the absence of the sheriff and the arrival of his deputy should be rejected. It seems forty-five had been taken, thirty-two for Mr. Letcher and thirteen for Mr. Moore. These two operations make a difference in Mr. Letcher's majority, originally forty-nine, of thirty-eight votes, and will consequently reduce it to eleven. These eleven and more are afterwards reduced by illegal votes, thirteen of which are rejected because they were students of a college, situated in the district, whose parents lived out of it, and therefore it is contended their residence was not such as to entitle them to vote. This point not being before the House at present, I shall reserve my remarks upon it for another occasion. It appears that seventy legal votes, against which there is no manner of objection, have been rejected because of an alleged formality in holding the election.

Mr. Speaker, I shall contend that there was no informality, and if there was, it is not of a character to be regarded, and further, that even if it ought to be regarded; it is not such as to have produced the conclusion to which the committee have arrived, viz. to make it operate to the prejudice of one and to the profit of the other of the candidates. If it vitiates the election to any extent it must to the whole. Sir, there was no informalty; the law was substantially complied with. Let us consider the first objection as to the *opening of the election*. The sheriff is to open the election *by* ten o'clock, and to keep it open until *at least* one hour before sunset. Need I enter into a criticism upon words to show that *by* does not mean *at*? Will any one contend that the words of the law both as to the time of opening and closing the election does not confer upon the sheriff a *discretion?* May he not begin before ten, and continue the election after the hour before sunset? If the expression *by ten* means precisely *at ten*, then he has no discretion; but if, according to the plain common sense, popular meaning of that language, (independent of the strong circumstances standing in connexion with it, such as the discretion given him as to the time of advertizing and closing the election,) it imports, as is often used in the business transactions of men, *on or before ten*, then he has a discretion, of which he cannot be deprived. But it is said this construction deprives the judge appointed by the court of his right to preside, and having until ten to signify his pleasure to do so or not, the sheriff is bound to wait till that hour before he exercises his right to appoint a judge, under the law, and proceed to the election. Now, sir, the fair construction of laws, or contracts, is to make all their seeming inconsistencies stand, if possible, to give effect to its contradictions if it can be done without manifest injury to its true spirit, object and intention. Who does not perceive that this can be done, and done with the utmost propriety in relation to this law? The legislature were regulating the exercise of a great right of the people, and as their immediate representatives, in which they were as deeply concerned as their constituents, it could never have been their intention so to tramel and fetter this great interest as that the slightest misconstruction of their object should defeat the right. They had as much confidence in the sheriff, and the judge to be appointed by him, as they had in the county court, and the judges to be appointed by them. They were both designed to facilitate and give effect to the great right of suffrage; and when they were guarding against certain contingencies which might prevent an election, they never dreamed, nay, they could not, that this very caution would be the means of defeating their own privileges. Could they have any such inducement to place their rights, the most inestimable of all rights, without which all others are nothing, in such a situation that their exercise could only be attained by the most vigilant circumspection, as well as the most careful and accurate legal learning? It cannot be believed. Then what is the reasonable construction of this law? That *specific* limits should not be prescribed as to *time*, in conducting the election so as to impair the limitation of three days allowed by the Constitution of Kentucky, in which the election is to be held. The time contained in that instrument no law could shorten; and though from necessity the whole could not be enjoyed, yet doubtless the Legislature, intending to afford the voters as much of it as possible, were anxious not so much to abridge as to prevent the sheriff from doing it, and hence it will be perceived, in every instance, where he had any thing to do with it, he was required to lose as little as the nature of the case would admit.

It was more an enlarging than a restraining consumption of the three days, and every one must see the real mischief to be apprehended, was the *waste* rather than the *use* of the allowed time. For if the people in their convention, had believed three days necessary to a given object, they cannot in their Legislature be supposed to be so idle as to deprive themselves of it, even if they could; and therefore in the true spirit of the Constitution, the legislation promoted rather than restricted the grant. Under this view the fair construction would be this: says the law, the election must be opened by 10 o'clock, beyond that time the sheriff must not go, but before that time we give him a reasonable discretion (as is all legal discretion) to begin the first days' work. We have, to be sure, authorized the county court to appoint two judges to superintend it; they, however, have a full knowledge that we have also granted to the sheriff the power to open the election before ten, and in case of a failure to attend on the part of the court's judges, we have authorized him to appoint judges in their stead. Now, if at a reasonable time before ten, the voters wish to commence the election, where is the possible injury that can result to the exercise of their right, by telling the sheriff to appoint his judges, under the law and proceed to business? When the judges appointed by the court shall arrive, and claim by virtue of their appointment for a year, the right to conduct the election, where is the harm to suffer them to take the place of those chosen by the sheriff, who, in the language of the law, in consequence of their failing to attend, is required immediately preceding the election to appoint proper persons to act in their stead?" This construction enables the rights of all parties to stand, as well as those of the sheriff and his judges, as the court and their judges and all being officers equally trust worthy, and constituted by law, as the machinery to effect a great public object, no election can or ought to be distrusted, which has been held under its agency. The construction insisted upon by the Committee, leads to this singular absurdity. They say the sheriff must wait till ten o'clock, before he can appoint his judges, lest the other judges might come and claim their right: then who does not perceive they require of him to do two things in the same instant of time. According to law, he must not let ten o'clock pass, if he does, he violates the law. According to the Committee, he must not appoint his judges till ten; therefore, if at that precise moment of time, he does not proclaim to the people that the election is opened, and also, call upon proper persons, who are to be sworn before they can act, to serve in the place of the absent judges, he evidently fails in his duty, so that an impossibility is required of him. If, therefore, he can appoint 5 minutes before ten, the point is yielded, for every one must admit he can sixty. If he waits till after ten, the election is contrary to law. I only mention this to illustrate how unsafe, if not rediculous, it is to suffer ourselves to be governed by a little, contracted, narrow, lawyer-like principle of construction, in giving effect to laws designed to execute great political rights.

Sir, such a rigid construction will defeat nine-tenths of the elections throughout the United States. I will show that not a member from Georgia can hold his seat under this black letter rule. The law of my State is in the following words—"All elections for members of the general assembly, and for representatives in Congress, shall be held at the court house or place appointed for holding the superior courts in the respective counties, and the electors thereat shall vote (now) by ballot. It shall be the duty of *any three* or more of the magistrates of each county, not being candidates, to preside at and make returns of all elections for Senators and Representatives in the General Assembly, and Representatives in Congress; and the sheriff of each county, or his deputy is required to attend at such elections, for the purpose of *enforcing the orders* of the presiding magistrates, *and preserving good order.*" And again, "the presiding magistrates are empowered and required to appoint three clerks to attend said elections, whose duty it shall be to keep three rolls."—The law is express that "the time of opening the elections shall be at the hour of seven o'clock in the morning, and be kept open until the hour of six in the afternoon, and then close," Now sir, I appeal to every member from Georgia, to say, whether it is not the constant practice of our magistrates and clerks, to change places throughout the day, with others who come to relieve them in the labors of the occasion, and whether we ever open our elections till eight or nine o'clock. In what does this differ from the Kentucky law? Only in the mode of appointing the superintending magistrates. The Georgia law makes the appointment itself, the other authorizes the county court to do it.

Their duties are the same, and though expressed in different language, precisely the same services are required. The Kentucky law requires the county court to appoint *two* of their *own body*, as *judges* of the election, and a proper person to act as clerk. The Georgia law appoints *any three* or more of the magistrates of *each county*, to *preside at, and make returns* of all elections; and empowers them to choose their own clerks to "attend said elections" and keep the rolls. The words "any three" has reference to the body of magistrates in the county, being generally from twenty to thirty, and not to the idea of alternation at the election. The Kentucky law means no more, when it says two of the body of the county court shall be the "judges" of the election, than the Georgia law when it declares that three of the body of the magistrates of each county shall "preside at" and "make returns of all elections." "Preside" means all that is conveyed by the word, "judge." The Kentucky law requires that they shall attend to the receiving of the votes, until the election is completed, and a fair statement made of the whole amount thereof." The Georgia law means precisely the same thing when it directs its magistrates to "preside at and make returns" for they cannot do this unless they remain there during the *whole election* which is to be from 7 to 6 o'clock. To preside at and make returns "they" must receive the votes "and continue until the election is completed." And when it is urged that a Kentucky magistrate cannot make a fair statement of the whole amount of the election unless he remains there all the while, I answer a Georgia magistrate cannot "make a return" of the election unless he does the same thing, for he can no more certify for the different magistrates who have presided before him throughout the day than can the Kentucky magistrate. And so with regard to the clerks who are required to keep the rolls. Our law requires the sheriff to attend the election. For what? To enforce the orders of the presiding magistrates, and preserve good order. He is a ministerial officer; he has no right to exercise any judgment in the election, he may be called on to give testimony as to the qualifications of voters. Unless the sheriff is expressly clothed with judicial power by some law his is always a ministerial office, and therefore his presence is not always necessary in any tribunal where he may be called to act.—Where he is to exercise his judgment it may be necessary, but where he is to act ministerially or to testify, he is not necessarily obliged to be present till the occasion arises which makes it needful, and hence the sheriff at our elections and indeed at all courts is frequently absent till an occasion demands his ministerial services. By the election law of Kentucky his ministerial character is not changed. His duties then are precisely the same as the Georgia sheriffs; they are ministerial with the superadded character of being a ready witness to detect illegal voters if it should become necessary, and this does not imply an absolute necessity to be always present. I repeat, he is no judge—to open, close and proclaim the election, to keep order and testify as to the qualifications of the votes is all that is required of him by the law. While the judges and clerk appointed to preside are sworn, the sheriff is not. He passes no opinion with the rest of the presiding officers in any matter of dispute. The judges may admit a vote even after he has given information that in his opinion it is illegal. If he acts any where in Kentucky as a judge it is by permission, for he has evidently no such power by law. It is only by contending that he is a *judge* that you make his *presence* necessary, and this character is merely inferred from two expressions in the law, viz: "that the sheriff or *other presiding* officers shall open the polls," and that "the voters *shall vote in the presence* of said judges and *sheriff*, and unless the sheriff or one of the judges shall know the person offering to vote to be entitled to suffrage the clerk is directed to swear the voter, &c." Now from these two clauses it is inferred that the sheriff is made a judge of election. Are gentlemen aware of the consequences of making the sheriff a judge?—Judges cannot make deputies. The moment he loses his ministerial character he is unable to make a deputy, and according to the strict construction contended for, a deputy cannot act, because the election law does not authorize him to do so; besides, if a deputy could act it must be done as a sheriff under this same law, and then he also becomes immediately a judge, and consequently this court could have no sheriff in *whose presence* the voters shall vote. His absence therefore on the second day ought not to operate such an injury to the legal voters as to deprive them of their elective franchise. My worthy colleague, in his argument yesterday confounded the personal qualifications of voters with the requirements of the law as to the time, place and manner of holding elections, and said if you can reject the vote of a person under 21 years of age, because the law has required him to be of that age to entitle him to vote, you can reject a vote where the law has not been complied with in regard to time, place and manner. Now as I stated before, there is a clear and manifest difference between the qualification of the voter and the means provided by law to give effect to his vote. In all the transactions of life, whether in a civil, moral or political point of view, when we are called on to act as responsible agents, the intention, the *quo animo*, constitutes the very essence of accountability. A man may commit the utmost attrocities, such as homicide, house burning, nay, he may flay another alive yet if he be destitute of reason he commits no crime—this is a principle that runs through all human actions, and all our decisions intended to promote and advance the well being of society proceeds upon the quality of the motive that has given rise to the act. Will it be said, that the man who goes to an election with a full knowledge that he is not 21 years old, and who, consequently without right votes contrary to law is to be placed upon the same footing with the legal voter, who votes ignorantly as to the authority of the magistrate or sheriff, to receive his vote? If the law had considered them in the same situation, it would when it required the judges to swear the voters as to their right of suffrage, have provided a similar oath to be administered by the voters to the presiding officers as to their official qualifications.

This is obviously the effect of the rigid construction contended for by the committee. The elector to be safe, must, before he gives in his vote, take the election law and subject the managers to some such interrogations as these:—"Mr. Sheriff, did you wait till 10 o'clock, to the minute, before you opened the election? are the judges of your appointment or of the county courts; if of the first, under what circumstances did you make it, if of the last, have they been sworn? Have you been present all the time of the election, never turned your back once, walked aside, talked with any one while the people were voting, because if you did you were just as absent for all the objects of the law, as if you had been called home to a sick wife?" Indeed, Mr. Speaker, you perceive, in order to secure his privilege the voter will do manifest injustice to himself if he does not ask every question necessary to give effect to his suffrage. If every voter takes this precaution, instead of three days it will take three months to hold an election. And, after all, one false answer from the court or the sheriff would defeat him at last, for, under this notion of literal construction, a violated law could not be satisfied any more than if no inquiry had been made at all. But if these are *informalities*, I insist upon it, Mr. Speaker, they are not such as to amount either to a good cause to reject the votes, or vitiate the election; because they produce no injury to the rest of the voters or to the complainant at your bar, who has been seeking their confidence. On the contrary, it materially injures the discarded electors and his competitor.

That some such reasonable rule as this must be adopted I apprehend no one will deny, for it is idle to say that every informality will, or should produce the result contended for. There is not a law under Heaven that can be literally carried into effect. Suppose the Sheriff had not opened the election until after ten o'clock, does any one believe it would have vitiated the election, or even a vote? Suppose he had not given the month's notice of the election required by the law, would that have invalidated it? No one believes it.

In all the great purposes of government, its ends and objects must be attained by a rational exposition of its rules and regulations. That great law, superior to all law, the law of necessity, pervades every thing human, and cannot be legislated away. Let me give you an illustration of its ascendancy. If the Sheriff, I think they call him Hocker, had done his duty, Mr. Letcher would now be the sitting member. Suppose, at the beginning of the session, he had voted for the present clerk of the House, and that clerk had been elected by one vote, and suppose it shall now be determined, as I fear it will, that Mr. Letcher is not entitled to the seat, will any one say that the clerk's place should be vacated, because he was elected by a person who was not a lawful voter? And why not? Because if respect is not paid to the color of office in the diversified relations of public functionaries, there is nothing which can be made to stand the incompetency of language to convey our ideas, or the frailty of forecast to provide for unseen difficulties, or misconceived results. Great and important laws may be passed by one single illegal vote, and yet who believes that you must travel all along the process of this legislation to detect its errors, and then down through its consequences to correct its mischiefs? But, sir, if these informalities are such as the consciences of honorable members cannot surmount, by all that is holy in principle, and honest in reason, they cannot work a benefit to one, and a palpable injury to the other contending party, much less can they deprive legal voters of their right to a participation in the choice of a representative who is to legislate on his dearest rights, perhaps of life, liberty and property.

Mr. Speaker, there is something wrong in this case from the beginning. An attempt was made to deprive Mr. Letcher of his election by the *hocus-pokus* of this Mr. Sheriff Hocker, who has disgraced himself and nearly his State, and against whose conduct every honest man, from Maine to Georgia, and even beyond those places, if beyond them the case has gone, and honest men can be found, has manifested the most indignant detestation. The scheme which met the cry of *shame, shame*, from every quarter, having failed, the same object, pursued with an untiring zeal, must be accomplished, first by illegal votes; and that failing also, the law must be made to give way, even at the expense of legal votes, and all the sacred principles of the rights of majorities must be made to yield to a purpose which the most formidable public and private rights cannot resist.

Many cases of contested elections have been relied on by the committee to prove that the provisions of election laws must be complied with;—grant that this is right in notorious cases of injury, yet does it follow that the non-observance is to deprive legal voters of their privileges, and throw the result of the election into the hands of a minority? With the exception of two cases cited, the whole current of the authorities show that new elections were ordered. Why have the committee labored by these cases to establish particular premises, and then jumped to a wholly different conclusion? Following up those decisions, they ought to have recommended a new election. But have they done this? If you cannot count these seventy legal votes, fifty-four of which were for Mr. Letcher, for Heaven's sake, do not suffer the operation of their rejection to assist a man in obtaining a trust which the majority of the legal voters of his district believed he did not deserve, and which they had conferred upon another. Send the question back to them, and let them decide it for themselves. Sir, I will put a case, which will show the absolute justness of this course. Suppose there had been but one more vote, besides these seventy, in the county of Garrard, and that one, according to the notions of the committee, the only legal vote, would you say that this vote should determine the election in favor of the candidate for whom it was cast against the other seventy given to his opponent? If you answer in the negative, remember the principle cannot be altered by mixing this single vote with ten thousand others provided the rejection of legal votes turns the election in favor of a minority. Again, suppose the case I have put should have occurred in all the counties of that district, five in number, (and what might happen in one, might occur in all,) is any one prepared to say, that the five legal votes should prevail against five times seventy, equally legal, but void merely for the want of formal requisites? But, sir, suppose, which places the case out of all doubt, there had been no legal votes in any of the counties, but all liable to the objections raised against the seventy, would this House give the election to Mr. Letcher's opponent? And why not? If, in the case put, one vote is allowed to outweigh seventy, and five, five times seventy, then that principle would permit none to do it. If you go upon the doctrine that because Mr. Letcher is not elected, Mr. Moore must be, if you maintain that all fraudulent votes shall be taken from him for want of qualifications in the voters, and all his legal ones for want of a compliance with the forms of law, you are bound to decide in favor of Moore, whether he gets any votes or not.

Such principles cannot long prevail in this country, however they may serve to answer a temporary purpose. Sir, I would fain hope they are not intended to answer even a temporary purpose. Though I sincerely believe the decision will be wrong, if made in favor of the petitioner, yet it may not be right in me to imagine that such result has been influenced by party considerations. I am bound to believe that every member on this floor is actuated by as high and honorable motives as myself, yet, sir, it is not amiss to caution the best among us, from which I do not intend to exclude myself, to beware of the insidious character of party feeling. Parties are necessary in every government; and in a contest for political principle, I do not condemn a single honest exertion for the ascendency, but when private rights are to be settled, when the case is between man and man, as to property or privilege, the judge or juror, that could not forget his party affiliations, must be lost to every principle of honesty and justice. I may be deceived, but I think I can with great truth say, that I am able to approach this decision exempt from such a control, for I belong to party, which I am proud to say, differs altogether from those to which the competitors are attached. This case will soon become one of history, and the strong feelings of party with which, at present, it is unhappily surrounded, will as soon pass into oblivion.—We should therefore take care that we do not lay up for ourselves matter for severe reproach to the end of our lives. The idea of having wronged a fellow being from considerations which we know to be antagonist to the enduring claims of truth and right, must be a reflection calculated to make a most unwelcome pillow companion in the closing scenes of time. Sir, this election should be decided as if all the people of the district were surrounding us in that circular gallery, and looking them in the face, we should listen to the voice of the seventy rejected legal voters, imagining we hear them demand to have their rights respected as much as those who have been less unfortunate in the preservation of their suffrage, but not more entitled to its exercise.

It was my intention to have said more, but I am obliged to desist from a severe pain in my breast.

WEDNESDAY, MAY 28, 1834.

SENATE.

A message on Executive business, was received from the President of the United States, by Mr. Donelson, his Secretary.

Mr. CHAMBERS, presented a memorial from a meeting of the voters in Frederick county, Md. condemning the doctrines and acts of the President, and approving the course of the Senate, on that subject.

After Mr. CHAMBERS had made some remarks, to be given hereafter, on the subjects referred to in the memorial, it was disposed of as usual.

Mr. WEBSTER, from the Committee of Finance, reported a bill to alter and amend an act relative to duties on imports, and particularly on hardware.

Referred to the Committee on Finance.

Mr. TOMLINSON, from the Committee on Pensions, moved that said Committee be discharged from the further consideration of the petition of Robert Henry Day.

Mr. TOMLINSON, also moved, that the Committee on Pensions be discharged from the further consideration of the petition of James Smith.

Mr. CLAY, asked leave to introduce joint resolutions, that the reasons assigned by the Secretary of the Treasury for the removal of the deposites from the Bank of the United States, were insufficient, and unsatisfactory, and directing their restoration. The resolutions were short, and he would read them.

Mr. C. here read the resolutions:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the reasons communicated by the Secretary of the Treasury in his report to Congress, of the 4th day of December, 1833, for the removal of the deposites of the money of the United States from the Bank of the U. S. and its branches, are insufficient and unsatisfactory.

Resolved, therefore, that all deposites of the money of the United States, which may accrue, or be received, on and after the 1st day of July, 1834, shall be made with the U. S. Bank, and its branches in conformity with the provisions of the act entitled "an act to incorporate the subscribers to the Bank of the U. S. Approved the 10th of April, 1816.

The first resolution was a mere reaffirmation of one which had already passed in the Senate, that the reasons which had been assigned by the Secretary, for the removal of the deposites from the Bank of the United States, were insufficient and unsatisfactory. That resolution was a separate resolution, not intended for the other House; and the other was intended to produce that result which ought to have been produced long ago—the restoration of the pub-