IN THE SENATE OF THE UNITED STATES,

JANUARY 27, 1882.

THE SHERMAN THREE PER CENT. FUNDING BILL AND THE NATIONAL BANKS.

The Senate, in Committee of the Whole, having under consideration the bill presented by Mr. Sherman to refund at three per cent. the reduced sixes and fives, otherwise called the "Whispers"—

Mr. HAWLEY said:

The amendment proposed by the Senator from Missouri [Mr. Vest] has been very materially improved by the amendment offered by the Senator from Alabama [Mr. Pugh], striking out the second proviso, which he has accepted. * * * But there still remains in the bill the concluding, and now the second proviso which repeals section 4 of the act of June 20, 1874, and re-enacts sections 5190 and 5190 of the Revised Statutes. I need not read said section 4 of the act of June 20, 1874, which he desires to repeal. It provides that any association organized under that act or under any act of which it is an amendment, desiring to withdraw its circulating notes, may bring into the Treasury legal-tender notes to a premium above cost and deposit them, leaving them a security for its circulating notes, take its bonds with the 10 per cent. margin, and go away. Originally, when a bank desired to retire its circulation and take up bonds, it was required to bring to the Treasury the bills it had issued. * * * As was found to be next to an impossibility, every man knows that the national-bank notes have now a free circulation all over the country; that they go whither they will. They have no tie bringing them back to the parent bank; they are good everywhere for all possible purposes; so that a bank sees but a small fraction of its own bills after they are once sent out; they fly all over the world; they do not come back like the birds of the field or the fishes of the sea to their place of birth.

It was found, I say, difficult to wind up the business of a bank in consequence of the original requirement. This fourth section was in the interest of banks that were closing up business as well as in the interest of those who desired to reduce their circulation. The Government was safe; it had its own legal-tender obligations to meet those bank bills whenever they should come in. It was more than safe; it had the use of that money in the interval. It was more than
safe in another respect, because not all of those bills ever will come in; it has for a profit the difference between the legal-tender deposit and the bank bills issued; that is to say, the waste, for every lost bank-bill is a profit to the Government. No wrong was done to anybody by section 4 of the act of June 20, 1874, but the transaction of business was made more easy.

It is said that the convenience was abused, because it enabled a bank to come down here and in one day take out a large number of bonds, leaving a deposit for its bills, and go away to use the bonds for speculative purposes. It is said there was one bank, I believe, that brought down say $500,000 of legal tenders and took out bonds, and repeated the operation twice in the year. I do not know that banks have not done so.

But it is also said that the privilege was abused again when the country was anticipating the passage of the 3 per cent. bill last year with what is known as the Carlisle amendment. A great outcry had been made before the public, and made here also, because a certain number of banks came in then, anticipating this restrictive and what I call communistic legislation, and they brought in their legal tenders so as to get out of the way of the coming Carlisle amendment. It has been said that it was a combination among banks that brought this about; that they were backed up by other banks, and they intended to bully Congress and the Executive and depress the market.

To the latter point first. If the banks of New York City or of the United States desire to bring about anything in the nature of a crisis, a sudden depression, they have the means perfectly in their power at any second of the day or of the year, without resorting to a comparatively cumbersome process like this; nor is there anybody in the United States so thoroughly interested in preserving a perfectly equitable and undisturbed condition of business as these banks. Why? These national banks alone have out $95,000,000 of call loans, to say nothing of the loans on time. They can secure themselves more easily on call loans than they can on time loans, but suppose they desire to bring about a crisis in the market? Suppose it was their interest to be violent bulls and bears? They need only to call in, we will say, just $20,000,000, of that $95,000,000 on call loans, and that would throw the whole market of the whole country into confusion.

There is nobody so timid and conservative in these matters as the great financial institutions. You know that capital is fearful of disturbance; it cannot bear violent reactions. Therefore it is worth while that there should be eliminated from the discussion any pretense that those banks desire to disturb the market and create a panic in the country. They simply followed an instinct of self-preservation in getting out of the way of the restrictive and exceedingly troublesome provision, the second proviso in the Carlisle amendment. I shall not wait to discuss that; but it was the most monstrous and ridiculous provision I ever saw proposed for legislation, as I could demonstrate in time. It is gone, and I am glad of it. It would have compelled the Secretary of the Treasury to put into the hands of a receiver and into bankruptcy a bank that could not collect in thirty days its own bills, whereas the Divine Providence himself could not do it without recreating the destroyed bills. The bills of no considerable national bank can be collected short of several months without paying a smart premium.

I say I am in favor of section 4 of the act of June 20, 1874. I was saying I did not believe that the power had been used to disturb the country willfully and maliciously. One hundred and forty-one banks
in twenty-four States in a very few days brought in their legal-tenders to the extent of eighteen millions. One of those banks was the Third National Bank of New York, which redeemed at that time $840,000 of its bonds, and never has replaced them, and never entered into circulation again to that extent. It went nearly out of the business of circulation. It thought it could make more money otherwise, or it was afraid of the Carlisle legislation. That bank, I am told, is largely owned and controlled by Samuel J. Tilden. Can you charge him with having been in a Republican bank conspiracy to depress the securities of the country?

I should have mentioned that I wish to offer an amendment to prevent the possibility of such abuses as are said to have occurred under that section. I would require that a bank desiring to deposit legal-tenders against its circulation and take out its bonds should give thirty days' notice of its purpose. Then the market would foresee any possible effect; you could not have a crisis precipitated in an hour, as some of these gentlemen fear might be done. There is no objection to making this process reasonably slow and conservative by requiring them to give such notice, and requiring also, as I propose in my amendment, that not more than $5,000,000 shall be taken up and deposited in this way in any calendar month or in any thirty consecutive days. That would meet very largely I think the objection of the Senator from Missouri.

I am willing to admit, if you choose, that there is a possibility of a speculative abuse under section 4, but it is essential to any sound system of free banking if the word "free" has any sense in it whatever, and we are boasting of a system of free banking. The last proviso of the Senator's amendment would revive sections 5159 and 5160 of the Revised Statutes. By the discussion within the last half hour the effect of such a revival has been pretty clearly set forth.

Mr. HILL, of Georgia. I suggest to the Senator from Connecticut whether it would not be advisable before continuing the debate to have all the amendments printed.

Mr. HAWLEY. I will conclude very soon, but I think Senators will more easily understand my amendment (I flatter myself they may) if I accompany its presentation with a brief explanation. The Senator from Iowa [Mr. ALLISON] has shown what the effect would be of the revival of the sections just named. Banks hereafter organized would be obliged to deposit solely the new 3 per cent. bonds; they could put nothing else in. I do not say that there is any thing in the nature of communistic legislation in that. While it may be unwise, the United States have a perfect right, feeling confidence in their ability to negotiate 3 per cent. bonds, to say that hereafter we will organize no national banks without using those bonds. If these clauses on being revived shall not be retroactive, the existing banks holding the old bonds are not required to replace them. There is no doubt of our abstract right to require three percent in future organizations, but there is a serious objection to the wisdom of it, which the gentleman from Missouri will understand, as I state it briefly. There will be no new banking except in sections of the country where capital is abundant and where the common, ordinary rate of interest in commercial transactions is low. Banks in his country, banks beyond a certain limit of the Alleghanies, or something like that, would never be organized further—not a national bank. The effect of this legislation would be in aid of the destruction of the best and most beneficent system of banking the world ever saw—acknowledged to be such.
Mr. SHERMAN. It would benefit New York and New England.

Mr. HAWLEY. Yes, sir; the Senator from Ohio is quite right. I was about to say that it would help my section and hurt that of the Senator from Missouri. It would confine banking hereafter, the organization of new banks, to New England, New York, and the few money centers where capital is abundant and money is cheap. During the last year business was most extraordinarily prosperous. The banks of New England, obliged to lend money upon lower rates, made 7.3 per cent. profit upon capital and surplus. That looks large, but the banks of the section of the gentleman from Missouri, the western section, as reported by the Comptroller, made 11.6 per cent. profit upon capital and surplus, being 4.3 greater profit, or about 60 per cent. more than our New England banks made. The reason is obvious. The Senator gave it in the speech advocating his amendment. He said that in his section lenders got 10 per cent., or 9 per cent., or at the lowest rate 8 per cent. He has in his own State over $100,000,000 of State and private banking capital, which has over $36,000,000 of deposits, making a total of about $57,000,000 of State and private capital and deposits there, against about one-third of that amount in the national banks to-day. With all he says about the profit of banks in the East, and the grasping nature of these eastern capitalists, the people of his State will not go into national banking, though such banks make 11.3 per cent., because they can make in private banking more than they can under the national system with its wholesome provisions, its strict inspection, its frequent publication of bank statistics.

The effect of the Senator's amendment as it stands would be, I say, to restrict national banking to the East, and gradually depress it. More than that, the effect would be to drive many banks instantly out of the whole business into State banking or private banking. Within the last thirty days a large bank, created in the last century in my own State, has gone back into State banking, because it thinks it can do better; and others may do so, if too restrictive legislation shall be adopted.

I am not talking in the interest of national banking. I am talking for the United States, which wants to lend its money upon good terms, and cannot do this thing arbitrarily. It cannot; there is no use in pretending it can. You must consult that which is the most delicate of all human mechanism. There is not a spring, no instrument so open to the influences of the very breath, to the least variation in the temperature, to the least violence, as capital. You cannot arbitrarily take it and lock it up here; it will slip through your fingers like quicksilver or like water through a sieve.

It is a question of how much the money market will take, and at what rate, of its own free will, and not a question of what restrictive and thumb-screw legislation we can devise to capture and coerce capital.

I sympathize with the Senator from Ohio [Mr. SHERMAN] in his laudable desire to make, if possible, a loan upon as good terms as Great Britain. If we could succeed—I am very doubtful about it, I am afraid I shall vote against the bill anyhow—if we should succeed in getting this $200,000,000 on the terms he has supposed, he would have done something that Great Britain never attempted; he would have gone far beyond her.

Mr. HILL, of Georgia. May I ask the Senator a question?

Mr. HAWLEY. Yes, sir.
Mr. HILL, of Georgia. How shall we ever know that we can float a 3 per cent. bond until we try?

Mr. HAWLEY. The better way to try, if you choose—and you can thus test it thoroughly—is to offer a bond at 3.20 per cent., or 3.30 per cent., and see what premium the market would give you on it. You would sell a bond at par or above par perhaps; but if you fix the rate of interest at 3 per cent., the market will not be likely to give quite 100 cents on the dollar. I have not the slightest idea that it would. It never has done so in this country for a single moment. It has come very near it, but under conditions altogether more favorable than those the Senator from Ohio gives. The bonds were 4½ per cent. bonds, payable in 1891, and fours payable in 1907, and they have sold at prices that left the owner sometimes only a little more than 3 per cent., but always more. Time is a great element in the problem. The British consols are what we never have attempted to issue in this country, but what we could have issued more profitably than any bond we have put out; they are a perpetual annuity, an irredeemable bond. I know that the idea of a perpetual debt scares people; but a perpetual 3 per cent. annuity would be such only in the form of it, not in the substance. If you should offer today a bond at 3 per cent., a perpetual annuity, I believe it might be possibly taken in this country, because a man who wanted something good for thirty or forty years would say: “I can hold these; the Government cannot draw them;” but all the while, through the settlement of insolvent estates, and the estates of deceased persons, and in many other ways, those bonds would be coming into the market. You can buy consols any day in the market in London, and always could have bought them, below par, with the exception of a few days in a generation, and you could always buy our three per cents perpetual annuities at par. They would practically be a bond at call, and at the same time would be a long-time bond to those who wished to hold them as such. If we were in any really serious trouble concerning our debt, if it were a real burden that we desired to distribute over fifty years, that would be the best form of negotiation. But I do not think we need it.

I see that I am tempted into discussing the whole question, but I will stop soon. I am inclined to think that we might just about as well leave these $550,000,000 of “Windoms” as they are. Somebody thought, I believe it was the Senator from Colorado, [Mr. TELLER,] that this bill was in the interest of bondholders and of banks, or some such people with capital. The money power of my little town, which has some tens of millions of capital to control and care for in the interest of poor people all over the country—the people of my town are nearly indifferent upon this subject, and are rather inclined to think that the whole thing might about as well stand as it is, though some of the banks are feeling very sore that the Secretary of the Treasury is calling for their Windoms every day, their old sixes that were paying them 6 per cent., a little while ago and are now paying them 3½ per cent. I do not know that they would care much about the chance to get a 3 per cent. bond that would be beyond the reach of the Treasury Department for only five years. They think that there is no special advantage to be got in it. We have a position that gentlemen have well described already—$550,000,000 at call, either $1 or the whole $550,000,000 of it any day—to take care of during the next nine years. With the 4½ per cent. bonds becoming payable in 1891, I do not want to pay the five hundred and fifty millions in five years. I am opposed to paying it in five years. I think it is...
our solemn duty, as the Senator from Ohio has said, to reduce the taxes, and I go a little further than some of those gentlemen. I would reduce the taxes to-day probably $50,000,000 if I had the power. The elasticity of the country is such that though we should reduce the surplus to seventy millions, we should in two or three years run up to the present figure again. I desire to offer the amendment of which I spoke. I move to strike out the last proviso in the amendment of the Senator from Missouri and insert the following:

That any national banking association now organized, or hereafter organized, desiring to withdraw its circulating notes, upon a deposit of lawful money with the Treasurer of the United States as provided in section 4 of the act of June 20, 1874, entitled "An act fixing the amount of United States notes, providing for a redistribution of national bank currency, and for other purposes," shall be required to give thirty days' notice to the Comptroller of the Currency of its intention to deposit lawful money and withdraw its circulating notes. Provided, That not more than $5,000,000 of lawful money shall be deposited during any calendar month for this purpose: And provided further, That the provisions of this section shall not apply to bonds called for redemption by the Secretary of the Treasury.

Mr. HILL, of Georgia. I believe it is understood that the amendment of the Senator from Missouri, as it would read as amended by the Senator from Alabama, together with the sections of the Revised Statutes to be re-enacted by that amendment, will all be printed.

Mr. HAWLEY. And my amendment also.

Mr. HILL, of Georgia. And the amendment now offered by the Senator from Connecticut.

The PRESIDENT pro tempore. The Chair regards that as the understanding of the Senate, and an order to that effect will be entered.

Mr. VEST. Now, Mr. President, a word in answer to the Senator from Connecticut. That Senator was pleased to say that, in his judgment, this amendment was communistic. I know no word in all the vocabulary of the English language more contemptible, more violative of every instinct of honor than this word "communistic." Yet that honorable Senator saw proper in his place on this floor to charge the Senators who voted for the funding bill when it passed last spring, and the Senators who propose to vote for this amendment now, with being communists, men who want to strike down all property, all money rights in this country, and parcel out equally, without regard to Constitution or laws, the property and the money of the country. If that Senator sees proper to apply that language to his colleagues on this floor I have nothing to say, except to call attention here to the simple fact that he has made that statement. What is there communistic about this?

Mr. HAWLEY. I think if the Senator will refer to my remarks carefully he will see that that applied to the second proviso, which he himself allowed to be stricken out on the motion of the Senator from Alabama. I was speaking with reference to that proposed action which would compel a bank when its bonds were called in to either take the 3 percents or go and get all its own circulation within thirty days. That was the thumb-screwing process to which, I believe, I did apply the term "communistic:" a forcing process, to practically seize property and inflict a great damage, unless the banks will agree to take the new bonds we offer. It was that, not the whole section, that I had in view—just that second proviso.

Mr. VEST. I will read the language of the Senator.

Mr. HAWLEY. I will say that, whatever the construction may be, I think I am right. I do not take back the word, but I want to be distinctly understood as to what it was I applied it to.
January 31, 1882.

The Senate, as in Committee of the Whole, resumed the considera­tion of the bill (S. No. 46) to provide for the issue of 3 per cent. bonds.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Connecticut, [Mr. HAWLEY,] to the amendment of the Senator from Missouri, [Mr. VEST.] The Senator from Connecticut is entitled to the floor.

Mr. HAWLEY. I understood the Senator from Missouri to say to me privately that he desired to suggest some modifications of his amendment before I proceeded, but I do not see him here at this moment. I will yield to him whenever he comes in.

The PRESIDENT pro tempore. The Senator from Missouri has just come in.

Mr. VEST. I propose to modify the amendment I have offered by substituting what I send to the Chair.

The PRESIDENT pro tempore. The mover has a right to modify his amendment before a vote is taken. The amendment will be read as modified.

The Acting Secretary. It is proposed to add to the bill as an additional section:

SEC. 2. From and after the 1st day of July, 1882, the 3 per cent. bonds authorized by this act shall be the only bonds receivable as security for national-bank circu­lation from national banks organized after said date, or from national banks there­after applying for an increase of their capital to the extent of such increase, or as security for the safe-keeping and prompt payment of the public money deposited with such banks: Provided, That the Secretary of the Treasury shall not have issued all the bonds herein authorized, or shall have issued so many thereof as to make it impossible for him to issue the amount of bonds required; And provided further. That section 4 of the act of June 20, 1874, entitled "An act fixing the amount of United States notes, providing for a redistribution of the national-bank currency, and for other purposes," be, and the same is hereby, repealed.

Mr. HAWLEY. Mr. President, I am glad to see these successive modifications of what I consider a bad measure. The Senator from Missouri by successive changes in what was known as the Carlisle amendment has followed the example of the late President of the United States in condemning the measure in that veto for which the latter has been so much censured. The Senator now leaves, in what we have for convenience sake called the Vest amendment, simply a pro­vision that hereafter there shall be received as a basis of circulation 3 per cent. bonds only, and a repeal of section 4 of the act of June 20, 1874. That is all that is left of what was originally called the Car­lisle amendment, lately the Vest amendment. The modifications elim­inate very much from the discussion. The target at which I was about to aim has been in considerable part removed. I am obliged to the Senator, for it shortens my remarks somewhat. I agree with the Senator from Vermont [Mr. EDMUNDS] in what he said yesterday, that if we are going on with this general discussion of all that pertains to the national banks it would be well to have an understand­ing on that subject. I agree also that it would not be unprofitable. I have not regarded the time thus far expended as by any means wasted, because before this Congress are the very gravest prob­lems connected with our currency and our banking. We shall in
large measure decide the question whether or not the national-bank system shall continue, or, if it shall not continue, what shall take its place: whether we shall restrict ourselves to the issue of greenbacks solely or whether we shall reinstate the State-bank system. To do the latter it is only necessary to repeal some half a dozen lines or less in the statute-book, namely, the lines imposing a tax of 10 per cent. on State-bank circulation, which would bring back to us all the enormous vices and incalculable losses of the worst system or lack of system with which any country was ever afflicted.

I have no objection, if it be the understanding, to entering on that discussion. So far as the past is concerned, I think the Republican party stands ready and more than ready to justify itself as having furnished for the first time to the nation anything that could be called a system, and, secondly, for having furnished the best system ever known to any country. I am not about to open the whole subject; it is illimitable; but I shall make two or three points and leave it.

In the first place, our system furnished an absolute security to the bill-holder. Not one dollar or dime has ever been lost to any human being by reason of the bills of the national banks. That everybody knows. We have given to those bills a universal value throughout this country, for the first time a safe bill, for the first time a bill that was good in all sections, no matter where it was issued. There is probably not a person in this audience who, having more or less of bills in his pocket, can tell me, without taking them out and examining them, what they are; whether they are legal tenders or whether they are bank bills; or, if they are bank bills, from what banks they come. I do not believe there is a person in this Chamber, who may have $100 of national-bank bills in his pocket, who can tell me whether they are issued by banks in Maine, or Vermont, or Kentucky, or Oregon, or California, or Louisiana; and nobody cares. Nobody cares whether they are bills of any particular bank, because they are equally good all over the country. Everybody is familiar with the losses under the old system; everybody is familiar with the fact that in old times every grocer kept upon his table Thompson's old bank-note detector, and would not take pay for the morning's groceries until he had hauled that down and examined the bills presented to see what the discount on them was, which discount ran from 99 per cent. up or down; and in the old times one scarcely ever carried $100 to a bank without having to submit to a shave because of the depreciation of some bills.

All that is done away with, and we have, secondly, given almost perfect security to depositors, though that was not one of the primary objects of the national-bank act. Its primary objects were to furnish a place to put United States bonds, and to give an absolutely secure circulation; but we have by the wisdom of the system furnished an almost equal safety to the depositors. The statistics of the banks show, Mr. President—and I am very glad to see you occupy that chair, [Mr. Voorhees in the chair]—that the loss to depositors has been only about one-twentieth of 1 per cent of the deposits per year. Indeed, I ask the gentleman who said yesterday that the State banks were the safer to make any comparison between those figures and the figures of the ancient State banks. It is practically nothing, for one-twentieth of 1 per cent. in a year can hardly enter into a man's calculation as to the value of a whole system.

There is another respect in which that system is excellent, the extent of governmental supervision and publicity, the severity of discipline. Nothing like that had been known. Before the national
system was adopted no two States legislated alike. Some had a safety-fund system, some had other provisions for securing circulation; but I think the majority of the States had next to no system at all, substantially confining themselves to chartering a corporation with power to issue bills.

Mr. INGALLS. Does not the Senator think that in view of the recent experience in Newark and Boston the present system needs some amendment?

Mr. HAWLEY. So does human nature. In view of the crimes of Guiteau and others, I think human nature needs amendment; but we will take the percentage of the whole and conclude that humanity is not so bad. If the percentage is only one-twentieth of 1 per cent., that will answer. We are trying to make it better; but I have the authority of the Comptroller of the Currency for saying that if we include the national banks referred to, the loss does not exceed that ratio this very year. I am sorry there was any failure; I am sorry the Republican party cannot say that it did not save even that one twentieth of one one-hundredth.

The fifth advantage of this system is the revenue that is yielded by taxation. Some Senator the other day, perhaps it was the Senator from Missouri, gave figures in general resembling these; any figures will serve to illustrate. He supposed that $12,000,000 was paid to the banks as interest upon the bonds they had deposited, and then that we had collected from the banks $3,000,000 of taxes. He put down the $9,000,000 as a profit to the banks. But suppose we had no national-bank system to get the $3,000,000 out of, the expenditure would have been $12,000,000, for we should have had the interest to pay and none of it to get back by way of taxation. It would be quite as fair, and a great deal fairer, for me to claim that what we got out of the national banks, our own creatures, by taxation was so much clear gain, because our bonds would have been in somebody's hands anyhow. The banks were an advantage to us because they furnished us a market for our bonds and also a very considerable revenue from taxation.

The total taxes paid by the national banks since their organization are $108,566,640.90, one hundred and eight million dollars in round numbers. The total cost of that system from the beginning has been only $5,145,649.01.

To give another figure of interest to those gentlemen who are denouncing the burden of these institutions, the loss upon bills that will never appear again has been sufficient, that one single comparatively insignificant and overlooked item has been more than sufficient to pay the entire expenses of the national-bank system from the beginning—all the expenses, not the expense of redeeming circulation alone, but the entire expense of the system, for the calculation is, I believe, that it is 1½ per cent. on the average circulation, which is now $360,000,000. Suppose it to have been an average of $350,000,000, and gentlemen will see that it does about make the $5,000,000 of total expenses.

But I must give a few words to some criticisms of our friend from Missouri. I did not take them as anything very severe. They did not affect me materially. He was offended by my using the word "communistic," parliamentarily offended, not otherwise, I think, by my using the word "communistic" with reference to the second proviso of the original Carlisle amendment. Well, sir, he has vetoed that, following the example of President Hayes; but his comments
on me were such that I will say just a word or two about that defunct pet, which was this:

That no bond upon which interest has ceased shall be accepted or shall be continued on deposit as security for circulation or for the safe-keeping of the public money; and in case bonds so deposited shall not be withdrawn, as provided by law, within thirty days after the interest has ceased thereon, the banking association depositing the same shall be subject to the liabilities and proceedings on the part of the Comptroller provided for in section 5234 of the Revised Statutes of the United States.

I will follow the processes pointed out for a few minutes, and then I will leave it to honorable, fair, judicially-minded men to say whether the word "communistic" is severe enough for that transaction. I will apply no words to it; I will leave the good sense of all fair-minded business men to characterize it. And this is no reflection on the motives, purposes, desires, or character of the gentlemen who offered it, or who may have sustained that amendment. It is a criticism upon the inevitable bearings of it, and if I can show to them that it deserved the epithet "communistic," of course they will condemn it. The Senator from Missouri has withdrawn it for some good reason.

This is the working of it. I will suppose a bank having $200,000 of bonds pledged to secure 90 per cent., that is to say $180,000 of its bills. These $200,000 of pledged bonds are composed of the reduced sixes, or Winomds, the three-and-a-halves. It has a call sent to it by the Comptroller for $100,000 of these bonds, and it brings them to the Comptroller. The ordinary process is that the bank shall either substitute some other bonds or receive 10 per cent. of the sum in cash, and leave the rest with the Comptroller to redeem its bills as they come in.

But under this second proviso of the Carlisle amendment the bank presents itself to the Comptroller and says: "Mr. Comptroller, we have here the $100,000 of 3½ per cent. bonds which you have called for; we will be glad to take 10 per cent. cash and leave the other 90 with you to redeem our bills." "No," says the Comptroller, "under the Carlisle amendment you are required to take 3 per cent. bonds in place of the three-and-a-halves; the option is not open to you," (as it was under the proceedings of our distinguished colleague, lately Secretary Winomd,) "to take your choice between cash and a continuance at 3½ per cent., but you must take the 3 per cents." "But," says the bank, "we cannot afford to do banking business on that basis; we would rather go out of circulation so far as this $100,000 security for $90,000 of our bills is concerned." The Comptroller turns about then under this provision and says: "Sir, I give you notice that you are to go to work and within thirty days collect your whole $90,000 of bills and bring them here; otherwise we shall put you into bankruptcy." "But," says the bank, "do you not know, Mr. Comptroller?" — "Ah," says the Comptroller, "I know nothing; I know only the law." However, Mr. Comptroller, don't you know that no bank in the world can ever collect all its bills within thirty days; and least of all can the national banks do it, because by reason of the great merit of these bills and the universality of their circulation, they are scattered all over this land, and because no citizen knows what bank it is that issued the bills he has in his pocket, and though we may even offer a premium of 1 or 2 or 3 per cent. in the market for bringing our bills in we cannot get them, because not one person in a hundred, not one person in a thousand of the people reads such notices or knows what is going on at the clearing-house or among New York brokers, and people will carry around most of that $100,000 of our bills months before they will ever hear that there is a 3 per cent.
premium offered for them? Do you not know," says the banker, "that I positively cannot get those bills into my hands within thirty days? I might, if I offered a heavy premium, get 80 per cent. of them; will you let me off then?" "No, there is absolutely no lost motion (as the mechanics call it) in the amendment. It is absolutely rigid. You are required to bring them back, every dollar of them."

"But," says the banker, "do you not know that there is from ½ to 1½ per cent. of the bills of every bank that never do come back; they are burned and destroyed, lost in every way so that even no evidence of their loss can be presented?" "Yes, I know that, but the law has not one particle of elasticity or mercy in it; you are required to bring back those $90,000 of your bills and do it within thirty days or you will be put into bankruptcy." "Why?" says the bank. "Because," says the Comptroller, "the Congress of the United States determined to compel you in that way to take 3 per cent. bonds; they determined to put you to a heavy penalty in the shape of a premium for your bills, the alternative being putting you in bankruptcy." That is the law of Congress, and a man is blamed for calling it "communistic!" It takes away some of my property without any show of reason or justice. The bank says "We are ready to pay our bills." "Yes, I know it," says the Comptroller. "Our credit is good in every respect." "Yes." "We have 25 per cent. surplus above our capital, ready to meet all obligations." "Yes, I know it." "What is the matter, then?" The Comptroller says, "The Government was doubtful of its power to negotiate 3 per cent. bonds, and therefore it said we will put you into bankruptcy unless you take the 3 per cent. bonds or comply with an impossible condition." That fairly illustrates and describes the second proviso of the Carlisle amendment.

The Senator from Missouri, I said, had done away with the necessity of a large portion of my remarks by omitting from the close of his amendment these words:

And sections 5159 and 5160 of the Revised Statutes of the United States be and the same are hereby, re-enacted.

Therefore he does not insist upon requiring all the banks to hold one-third of their capital in Government bonds, any deficiency in their present supply to be supplied from the 3 per cents. He confines himself now solely to two points which I have mentioned, but will mention again, the requiring that all banks hereafter organized shall take 3 per cent. bonds, and repealing section 4 of the act of June 20, 1874.

Now, there is no moral objection, if I may so characterize it, to be urged against his requirement that hereafter banks shall take 3 per cent. bonds; banks organized anew or increasing their capital. As I said the other day, the Government has a right to declare to the world that it is able to sell bonds at 3 per cent., and being able to do so, it of necessity legitimately and properly requires that the basis of banking and security for bills hereafter shall be 3 per cent. bonds.

Gentlemen find it very difficult to apply this to banks already in existence, and I think they are right in saying that they will not do so; that it would be a gross inequality and very great injustice. But if the Senate should adopt this amendment and require all new banks or banks increasing circulation to take these 3 per cents as a basis, what would result? An extraordinary inequality still among the banks. The old banks not required to substitute threes would be charged upon the stump and elsewhere—happily the Democratic party would take its share of the charge in that case—with being monop-
cies and having certain favored privileges. They hold fours and four-and-a-halves and three-and-a-halves. They get 4, 4½, and 3½ per cent, on the bonds they have put up to secure circulation, while another class of banks get only 3 per cent. The inevitable result would follow that I before pointed out, and there would be no more new banks formed in the western or extreme western or southern portions of the United States, where capital is less abundant and where the rates of interest rule higher. The new banks would all be formed in the eastern section of the country and we should have still more said against the grasping character of the East and the wickedness of this great monopoly!

There were some very interesting figures on that subject given in the various returns. I call attention to some more of them again for a moment. I want to read the figures concerning the State banks and private banks on the one hand, and the national banks on the other, of the State of Missouri—I will give them accurately this time—and those of the State of Kentucky also, for the consideration of the two Senators from those two States who have discussed these topics.

In Missouri there are one hundred and twenty State banks and ninety-two private bankers, though we are informed that the national banking system offers such extraordinary advantages for private capital. The total capital of those two hundred and twelve State banks and private bankers is $10,129,000; the deposits $46,772,000, and they hold only $447,362 of United States bonds. That is the course taken by banks and bankers who are absolutely at liberty, without any of these restrictions, to do as they please about the investment of their capital. I think they are mistaken; I think they would do well to hold more of United States bonds, which are a better reserve by reason of being nearly absolute cash any day in case of a stringency, but the banks that are relieved from our system do not do us the honor or the credit or the benefit to hold our bonds to any greater extent than this. With over $10,000,000 capital in Missouri they hold but $447,362 of United States bonds. What is the condition of the national banks of Missouri? With a capital of only $1,655,000 they have deposits of $10,255,000, showing that as to capital they are considerably less than half of the State and private banks; as to deposits, they hold less than one-quarter, but as to United States bonds the national banks of Missouri hold $3,554,000, against the $447,362 held by the State banks and private bankers.

The Senator from Kentucky gave us to understand, I think at least he would give a superficial and careless listener to understand, that we had practically destroyed all the advantages of State and private bankers, and that we had gathered together here in the eastern section of the country a great monopoly, making enormous profits. Now the system is free, absolutely free. The Senator from Ohio [Mr. Pendleton] said the other day that to be sure, oh, yes, it was free like railroads, but very few people had the capital to build a railroad. The analogy will not work exactly. Fifty thousand dollars would make a very small railroad, perhaps it would build one a couple of miles long, but it could not furnish it an engine or a coach; yet $50,000 can start a national bank, and five men can do it and five men can run it. If there be any capital for any kind of banking there is almost anywhere capital enough for a United States bank, and yet in the State of Kentucky, notwithstanding what that Senator says about the ruin of all others than national banks, there are sixty-four State banks and there are twenty-six private bankers doing
business so large as to be brought within the purview of the Commissioner of Internal Revenue. The ninety State banks and private bankers, with a capital of $11,197,000, have deposits of $15,633,000 and hold United States bonds to the extent of $121,000. These are wholly outside of our system, and yet they are at perfect liberty—the holders of that $10,000,000 capital in State banks and private banks are perfectly at liberty in a day, upon the association, in any case, of five men, to organize new national banks. In that State there are fifty national banks, with a capital of $10,434,000, with deposits of $10,674,000, holding United States bonds to the extent of $11,357,000. They benefit the Government by furnishing holders for its bonds and by paying very considerable taxes.

The last clause of the present form of the Vest amendment repeals section 4 of the act of June 20, 1874; that is to say, it would require that banks desiring to deposit lawful money in order to reduce circulation and take up bonds shall no longer be allowed to do so, but be required to deposit only their own bills for that purpose. The objection to the course allowed since 1874 is that it is liable to abuse, and alleged abuses have been cited. They occurred last spring under the possibility that the Carlisle amendment would be adopted—I have referred to that perhaps sufficiently before—when the banks without combination, from twenty-four States, one hundred and forty-one of them, impelled by the instinct of self-preservation, desiring to make a change favorable to themselves before this amendment should lock the door, came in with $18,000,000 of legal-tenders to be deposited against so much of their own circulation. That, and the prospect of the then pending bill, afterward vetoed, made some little commotion in the market. I think it was our own fault. Nor are they to be charged with unlawful combinations or undue hostility to the Government or to the banking system. It was inevitable that they should do it.

I said last week that if the banks desired to create any disturbance whatever in the finances of the country, it would be quite easy for them to call, in New York alone, $20,000,000 of the $95,000,000 of call loans they have out in that city. They have a perfect legal right to do it; and yet every man knows that such a call would shake the business interests of the country from center to circumference. The Senator from Missouri and the Senator from Kentucky both quoted that innocent paragraph as if I had confessed some great enormity of this system. Why, sir, would it not lie so if we were relegated to State banks? Would not the State banks located in the State of New York have on hand heavy deposits and heavy call loans? Immediately upon the restoration of the State banks, those very same figures—ninety or a hundred millions of call loans—would be repeated. The statements would be purely voluntary, however, for when you shall have abolished your national system you will no longer send inspectors to officially investigate, you will no longer require frequent sworn returns, you will not be able to tell how much they have out on call loans and how much on time loans, how much they have to secure circulation, how much they have to secure deposits. The State banks would have the same power to shake the market, but would be out of your reach. If it were possible for you to go still further in hostility to the odious name of "bank" and abolish banking under State laws, what then? Next would follow the organization of private banks, for there must be banking.

The Senate of the United States, I am sure, is not about to give
Itself up to any sort of Jack Cade notion that because there is $100,000
together anywhere there is an enemy under it. Banking of some sort
is an absolute necessity, as necessary as a wheelbarrow, or a cart, or
a train of freight-cars, or a canal-boat. It is a method of transport-
ing property. It is the spiritual transportation of the beef, pork,
 wheat, cotton, and corn, and for every bushel of that moving, money
moves, money corresponding to it, through the banks. Banking will
be done, real banking, without laws to incorporate and regulate it,
and aggregated capital would be able to excite tumults in the market;
yet every man knows that the most conservative and timid interests
in the world are those of capital, and that there is no possible dan-
ger—it is barely imaginable—that the banks would ever think of calling
in 20 per cent. of call loans in a day, or taking any other violent
step with a purpose to injure public or private capital.

This provision in the law of 1874 was put in, I might say, as a mat-
ter of necessity, because of what I have previously pointed out. It
is impossible for the banks to bring in their own bills under years
really, and they never do it perfectly. There are banks in my State
that were created fifty, sixty, seventy, eighty years ago. It is a well-
understood thing that one of the small and constant items of their
profit arises from bills that never appear, burnt or lost, nobody knows
when or how. Therefore, we said in the law of 1874 that when a
bank desired to reduce its circulation, or to wind up its business, it
might deposit the greenbacks or any lawful money to meet those bills.
Is there any loss in that? Who loses? The bill-holder is secure.
Does anybody lose? If anybody, it is the bank, because it fails to
get into its own hands that profit from wasted bills that never appear.
That is turned over to and always has been claimed by and taken by
the United States Government. The Government takes $90,000 of
the $100,000, takes it in lawful money, and keeps a reserve against all
called circulation. It is a reserve of $20,000,000, more or less, now
waiting for bills to be presented for redemption, old bills of banks of
reduced circulation or the bills of suspended banks. It pays no inter-

est on that money so deposited. It holds, I will say now, $20,000,000.
It is something like that. Not a cent of interest does it pay on that;
yet that is money which the banks parted with and put there. It
is held to meet these bills. They straggle in; they will be strag-
gling in for twenty or thirty or fifty years if we shall maintain that
reserve so long. Every now and again somebody in my State finds
an old Hartford bank-note tucked away in some family Bible or old
cupboard, bearing the names of the president and cashier of 1810 or
1830, and brings it in and the bank redeems it. So there is no pos-
sible harm, no possible injustice to anybody in putting the money
in the Treasury and leaving the Government to fulfill the obligation
to redeem the circulation, the Government having the use of the
deposit and waiting, and waiting for those bills to come in.

Gentlemen ask, who pays the expenses of redeeming circulation of
that sort? These banks, they say, go out and leave it to be paid by
the other banks continuing circulation. Yes; perhaps there is some
truth in that, but the Government does not pay it, and if it did,
waste on these bills itself repays the expenses of it, as I have shown.
Not only is this true, but I have shown you that it has paid since
national banking started just about the entire net expenses of the
whole system.

There is simply a facility for doing business in this section 4 of the
act of June 20, 1874, nothing else. They say it may be abused. Very
well; I have proposed an amendment which would put beyond pos-
sibility any serious abuse of that section. The amendment I presented is one that provides that if a bank desires to withdraw circulation it shall give thirty days' notice of its intention to do so. Then any large amount could not take instant effect to the alarm and disturbance of the market. The whole market would see what was coming and would discount any unfavorable effect.

I provide also in my amendment that no more than $5,000,000 shall be taken up in any one month; perhaps I might better put it in any consecutive period of thirty days. That distributes it along, gives notice of it, and will supply any natural demand of the market for a reduction of circulation, and prevent any possible combination, or in the absence of censurable combination, any sudden stampede of the market that might disturb it. I see no objection whatever to it.

But, Mr. President, I think I will withdraw it now and leave the amendment of the Senator from Missouri to stand just as it is. If it should be voted down, I may offer my amendment as an independent section, or I may ask to have it referred to the Finance Committee to be brought in as a separate bill or in connection with some other measures there pending. I shall hold myself at liberty when the bill is reported to the Senate to offer my amendment either as an independent section or as a substitute for a part of the Senator's section, if that should be adopted.

February 2, 1882.

Mr. HAWLEY. Mr. President, when the Senate was in committee I had an amendment pending which is in accordance with a recommendation of the Secretary of the Treasury, intended to meet or correct any possible abuses that may arise in the manner of reducing circulation. That amendment I said I would renew as an independent section if the amendment of the Senator from Missouri [Mr. VEST] was not adopted. I offer it now as a section of the bill, and I have no pride of opinion about it. I shall be quite as well content to refer it to the Committee on Finance to be incorporated with other legislation. It is entirely germane to this bill, and applies precisely to the circumstances that may arise if this bill should pass.

The PRESIDENT pro tempore. The amendment of the Senator from Connecticut will be read.

The Acting Secretary. The amendment is to insert as a new section:

SEC. — That any national banking association now organized, or hereafter organized, desiring to withdraw its circulating notes upon a deposit of lawful money with the Treasurer of the United States, as provided in section 4 of the act of June 20, 1874, entitled "An act fixing the amount of United States notes, providing for a redistribution of national-bank currency, and for other purposes," shall be required to give thirty days' notice to the Comptroller of the Currency of its intention to deposit lawful money and withdraw its circulating notes. Provided, That not more than $5,000,000 of lawful money shall be deposited during any calendar month for this purpose; And provided further, That the provisions of this section shall not apply to bonds called for redemption by the Secretary, of the Treasury.

Mr. MORRILL. I hope the Senator from Connecticut will withdraw his amendment, because I have to-day introduced and had referred to the Committee on Finance two bills to which it will be equally as appropriate as it will to this bill; at least I think so.

Mr. HAWLEY. I explained that I promised the Senator from Missouri when I withdrew this before in committee that I would offer it again in the Senate when the bill should have been reported from the Committee of the Whole to the Senate. I said I had no pride of opinion about it. I believe it is a necessary, a proper, and a wise provision. I could not say so much if I had been responsible for drawing it, but it comes from very excellent authority outside of this Chamber. It comes from the Treasury Department, and is simply carrying out a recommendation of the Secretary of the Treasury.
Now I have discharged my obligation by presenting a germane and wise amendment which I believe three-quarters of the Senate will approve. If the Senate choose to reject it, I care nothing. I should then yield to the suggestion of the Senator from Vermont and offer it as an independent measure to be referred to the Committee on Finance. It is before the Senate to do as it pleases.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Connecticut.

February 3, 1882.

The PRESIDENT pro tempore. The Senator from Alabama offers an amendment, which will be read.

The ACTING SECRETARY. It is proposed to add to section 2 the following:

\[\text{And provided further, That any bank that shall give the notice required by this section for withdrawing its circulating notes shall be required to withdraw the amount specified in such notice and at the time therein designated, and failing to do so to withdraw its circulation shall forfeit its charter and be put into liquidation.}\]

Mr. HAWLEY. I hesitate very much to trouble the Senate after so long a discussion, but I say that that amendment is not necessary, in my opinion, to the safe and proper conduct of business. I think the Senator from Alabama very much mistakes the character of the great financial institutions of the country; he very greatly underestimates the powers that they already have. I have not the slightest idea that it would ever have occurred to a banking officer in the United States that he would take that process for affecting the markets of the country which the Senator has described.

As I said the other day, and I tried to make it emphatic—I made it so emphatic that several Senators on the other side have endeavored to make capital against me on it—with their $95,000,000 of call loans, with their hundreds of thousands of millions of time loans, the banks have every imaginable facility for depressing and elevating the market or creating disturbance if that should be their desire. Nor is that in any way peculiar to the national banking system. It is simply the obvious and inevitable incident of the existence of the great capital, which can do these things whether it exist in the form of national banks or State banks or in the hands of private bankers. No man supposes that surplus earnings in the form of capital will exist in this country and remain in the pockets of each individual citizen. They will be deposited and accumulated; it is for the benefit of civilization that they should be; and when they are gathered together men will sometimes be led by their selfishness or their folly to use that aggregated capital in a way not wholesome to the general interest. But we have this general compensation or consolation that the capitalists who venture upon that course of proceedings uniformly find that their action recoils to their own great damage. The national banks are under bond to the extent of all their liabilities to conduct themselves with temperance and with moderation. I dislike to see a statute-book cumbered with harsh, arbitrary provisions like that the Senator from Alabama proposes to add at the close of my amendment: if you do not withdraw, if you should change your mind within thirty days and do not actually make a withdrawal, you shall be thrown into bankruptcy. It is too harsh, altogether unnecessary, excessively punitory, and goes to the extent of taking the money of innocent shareholders and depositors and throwing it all into confusion in the hands of receivers. I should be sorry to see that provision adopted. I think it is unnecessary in any regard.

[The amendment proposed by Mr. Hawley was adopted without a division. The bill passed the Senate, and is now (May 15) pending in the House.]
IN THE SENATE OF THE UNITED STATES,

March 9, 1882.

CHINESE IMMIGRATION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 71) to enforce treaty stipulations relating to Chinese, the pending question being on the amendment of Mr. Farley to the amendment of the Committee on Foreign Relations, to add as an additional section the following:

SEC. 16. That hereafter no State court or court of the United States shall admit Chinese to citizenship; and all laws in conflict with this act are hereby repealed.

Mr. Hawley. Mr. President, when I rose last night it was with the purpose of speaking but a very few moments upon the points specially before us. I confess I regret now that I did not sooner entertain a purpose to speak upon the bill, that I might put in good shape my serious objections to its general character. But I shall not detain the Senate long, for I know that members are anxious to dispose of the question, and yet it is one of such importance that I feel that I am not at all guilty of any serious wrong in insisting upon deliberate consideration.

I admit the doctrine that has been set forth here, that a nation is in some sense a family, and that there is a right and duty of national self-protection. I think we all assert that; nobody denies it. No dispute arises upon such a proposition until we come to the extent of that principle and the details of propositions.

A nation has a right to exclude paupers sent in upon it. That is not a voluntary immigration; it is an injurious one. It has a right, of course, to exclude insane and idiotic persons for the same reason. It has a right to exclude criminals, for they are sent here to our injury, and in order to relieve other nations from their own just burdens.

If the British Government, instead of resolutely setting about the suppression of thugism, had offered a free passage to thugs to come here and settle with us, with their religion teaching the duty of murder, of course we should have had a right to forbid that kind of immigration, and we should have been quite justified in taking it as offensive action on the part of Great Britain. So in a state of war or prospect of war—that justifies the exercise of extraordinary powers; inter arma silent leges. Laws national or international are set aside if thereby we can defend ourselves, and any class of people may be excluded or any foreigners may be ordered to depart, the measure of the exercise of the power being only the degree of the necessity of self-protection.

But we are legislating for times of peace. We are legislating professedly upon the general and not the exceptional principles that are to be justified by our Constitution, by the spirit of our laws, the national spirit, character, and policy that we have freely and boastfully set forth to the whole world for a century; which have elicited
the admiration and the pride of all generous souls; which are bringing to our shores this very year nearly a million of people; and which are very sensibly modifying the political aspirations and possibilities of all Europe. In this matter we are to make a change.

A few words in this proposed law may be quoted for a century, not as the opening lines of the Declaration of Independence are quoted, as a comfort, a prophecy, a battle-cry, but on the same page with the edict of Nantes, the innumerable decrees tormenting and banishing and excluding the Jews, the belated hobgoblin idiocies that are now torturing that race in some parts of Europe, the barbarisms that were once heaped upon the barbarous negro, and more appropriately still with the laws of Japan and of this same China, which treated all of us, gentle and lovely bearers of rum, opium, and Testaments, as "outside barbarians." Or it may be that this bill will be quoted with the alien and sedition law, the repeal of the Missouri compromise, and the fugitive-slave law, as an illustration of the truth that fifty million sovereigns can be as despotic as one sovereign.

If a great emergency has really arrived, if the coming of millions of Chinamen is so imminent that we must put up our Chinese wall, let us try and make the law at least speak plausibly. Let us say:

First. The Chinese do not come here to swear allegiance to this nation;

Second. They do not come desiring to learn our language;

Third. They do not come desiring to learn and understand our Constitution and laws;

Fourth. They do not come here with a desire to bear a share of our taxation and general burdens;

Fifth. They do not come here to perform military duty;

Sixth. They do not bring their wives and children, and do not send for them, nor expect to send for them;

Seventh. They bring the traits of a people submissive to despotism and alien to us in religion, traditions, and beliefs;

Eighth. They come to establish a peasantry, a cheerfully-enlisted, self-compelled, and contented peasantry among us, when we want no peasants and despise the man who is willing to be a peasant.

Recite this: I have given some reasons for excluding classes of people, not because of their particular color or particular birthplace, but because of certain characteristics that unfit them to make good American citizens, unfit them to blend with us. There would be something of specific defense of your bill if you would say that.

Mr. MILLER, of California. Do you want to put that in?

Mr. HAWLEY. I am not making the bill. If the Senator will put it in I think he will help his bill. Say that a rush of millions of such people, if you can make people believe that millions are coming, would seriously injure the great Republic and the cause of good government the world over.

I admit that to say this would be to admit also that if the Chinaman would come here, to throw off all allegiance to China and swear allegiance to the United States, to make his home and to bring his family, desiring to learn our laws and share our duties, he might very well come as others do, and I would say that. I would say that also in the preamble if necessary. But we have no such bill before us. The preamble aims only at a laborer, a laborer of a particular race. It does not charge him with any unlawful purpose. It does
not describe any dangerous tendency in him whatever. It is not
alleged in the bill that he comes with a bad purpose, or is likely to
exert any bad influence here. This is all there is of the preamble:

Whereas in the opinion of the Government of the United States the coming of
Chinese laborers—

They might be doves, for all the proposed law says. They might
be the messengers of peace; the messengers of a new gospel better
than ours. They had something like the golden rule long before our
Christian peoples knew anything of it, or before there were Christian
peoples. These men, I say, might be bringing a new gospel here.

Whereas in the opinion of the Government of the United States the coming of
Chinese laborers to this country endangers the good order of certain localities
within the territory thereof.

This is the whole preamble. It is not pretended therein that they
could exercise a bad influence over the whole country, to poison our
people against our institutions and beliefs, to damage us politically, so­
cially, or commercially, as a nation at all, but that their coming endan­
gers the good order of certain localities. What is the obvious impli­
cation? That if the Chinaman comes our citizens may insult him,
that they may raise tumults, trample upon law, that perhaps they
may kill him, or perhaps they may forcibly expel him, or they may
so hedge him about with fear that he would rush down in despair to
the sea-coast and beg to be transported home. That is the implica­
tion of the preamble. His coming here is going to make us so angry,
so fierce that we will rise up in rebellion and trample upon our own
laws and wrong this man who is not charged with any dangerous
purpose whatever.

I do not enter upon the argument at length that this proposed law
is in violation of the treaty just made, and yet I consider it to be so.
My colleague [Mr. Platt] has done ample justice to that subject;
but at this moment, glancing over the papers in the case, I come
across a significant paragraph that I have not heard quoted in the
debate. Perhaps it has been. If it will not trouble the Senate I
will read briefly two paragraphs, one from the communication from
our commissioners, Messrs. Angell and others, announcing the suc­
cessful negotiation of the treaty, and the other from the proclamation
of Mr. Evarts announcing the treaty. The commissioners said:

After our first interview with the Chinese commissioners—

I should like attention to this, if it has not been read before—

After our first interview with the Chinese commissioners we thought it clear
that while the Chinese Government would recognize the propriety of some regu­
lating discretion as to Chinese immigration on the part of the Government of the
United States, it would not consent to its formal prohibition and the absolute abro­
gation of the provisions of the Burlingame treaty relating to the free intercourse
between the people of the two countries. We did not think that the public opinion
of the United States would require so extreme a demand, and we considered our
instructions as warning us not to disregard the traditional policy of the United
States, and in your own words—

This is addressed to the Secretary of State—

to give due weight to the widely diffused, and, so to speak, natural sentiment
of our people in favor of the most liberal admission of foreign immigrants who de­
sire to incorporate themselves and their families with our society, and mingle the
stream of their posterity in the swelling tide of native population.

So the commissioners went there to China 'disavowing a desire to
prohibit, because it would not be in accord with our "traditional policy." When Mr. Evarts came to announce the treaty he said:

The treaty submitted settles the questions raised between the two countries in a manner alike honorable and satisfactory to both. While preserving to the subjects of China engaged in mercantile pursuits, in study, in teaching, or in travel for curiosity, the right of free intercourse with this country, the Chinese Government has recognized in the Government of the United States the right to regulate, limit, and suspend the introduction into its territory of Chinese labor whenever, in its discretion, such introduction shall threaten the good order of any locality or endanger any interests of society.

It is not put into the preamble here, as it might have been from the treaty, that their coming here would endanger, would affect injuriously the interests of society. The treaty says anything that would "affect the interests of society," being an obvious inelegance, when the writers intended to say "affect injuriously," &c., but even that is not inserted in the preamble.

This pamphlet shows also how carefully the Chinese desired to guard against an absolute prohibition, how cautious they were that a suspension should be only suspension. These official papers of the commissioners to the Secretary of State show that nothing in the nature of prohibition was intended. But suspension for twenty years is prohibition, and is intended as such.

The bill before us is very clearly a harsh and an extravagant interpretation of that treaty, just what the Chinese commissioners feared might be made, and what our commissioners assured them that our just and magnanimous and generous nation ought to be trusted not to do.

The civilized world jeered at China and Japan while they applied this identical policy to all the world outside their borders, and the civilized world gradually grew ready to bombard both China and Japan into international comity and good fellowship. The United States was proud that one of our citizens, a gallant and eloquent citizen of Massachusetts, became the agent and ambassador in unlocking her doors and shaking hands with the rest of mankind. In the supplementary treaty of July 28, 1868, it was William H. Seward, speaking for the United States, and Anson A. Burlingame, speaking for China, who said:

**ARTICLE V.**

The United States of America and the Emperor of China cordially recognize the inherent and inalienable right of man to change his home and allegiance, and also the mutual advantage of the free migration and emigration of their citizens and subjects, respectively, from the one country to the other, for purposes of curiosity, of trade, or as permanent residents.

**ARTICLE VI.**

Citizens of the United States visiting or residing in China shall enjoy the same privileges, immunities, or exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation. And, reciprocally, Chinese subjects visiting or residing in the United States shall enjoy the same privileges, immunities, and exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation.

To gain these things the civilized world bombarded China, and it granted them; and the civilized world, this part of it, appears to be sick of its bargain.

Singularly enough, I accidentally discovered this morning that the 28th of July, 1868, was the very day on which the fourteenth amendment of the Constitution was declared adopted, which for the
first time really made every one born in the United States or natural-ized therein a citizen not only of his State but of the United States. It was after that indeed that we ourselves by the fifteenth amend-ment, adopted March 30, 1870, declared that no person should be for-bidden to vote by reason of race, color, or previous condition of serv-titude.

Our zealous and radical republicanism is fading. Our apostleship of a generous humanity is to be abdicated. It was before the war that a Massachusetts man declared the Declaration "glittering generalities." He died, sir. I do not remember when he was buried; he died the day he said that.

It is seventeen years after a great war for union and liberty and the freeing of four million slaves, fourteen years after the assertion of national citizenship, and some twelve years after a declaration that no man shall be forbidden to vote by reason of race, color &c., that we are asked to deny to the Chinaman the right he was bom-barded into accepting; and upon that solemn act of legislation we put only the words I have read, saying that his coming as a laborer is dangerous to good order here.

It has been asserted that we have the right to exclude any man for any length of time, or all men for all time, according to our own judgment. It has been said that the right to fix the limit of natural-ization at all gives the right to fix it at a thousand years; virtually the right to regulate is the right to forbid all immigration and all entering upon citizenship. Perhaps so; perhaps not. Perhaps we are confounding right and power. We have in one sense a right to do all that we can defend under arms. We have a right in a certain shallow, technical sense of the word to do a great many foolish things, and a great many wrong things. Mr. Randolph Tucker, of the House, in the last Congress felicitously put what I think is the correct doctrine in the form of an algebraic equation: "Right equals power plus duty." We carelessly assert a right to do wrong things. I deny that we have a right, because we limit voting to those who attain twenty-one years, to make it sixty-three years, or to make it ninety years.

Mr. Jones, of Nevada. I should like to ask the Senator if one factor in the equation, "duty," is not an unknown quantity?

Mr. Hawley. Yes, it is. That depends upon our judgment and conscience, for which we are responsible to the world and to posterity and to God, but the equation remains true nevertheless.

I deny, because we can fix the limit at twenty-one years, that it is or may be or can be our duty to fix it at a hundred. I deny that duty can ever come in to fix it at one hundred years, because we have a right to fix it. I say it is not true, as has been asserted here, that the right to limit the citizenship of a foreigner to five years implies the right to make it one hundred years or five hundred years. There is no such right, because while there is the power, the other element of the equation, duty, is lacking there; and on that I appeal to the judgment of the country, the judgment of all honorable and fair-minded men everywhere. So that it is not fair to say that having the right to limit we have the right absolutely to prohibit. We have a right to say that the ordinary statute of limitations shall apply after six years. I deny the right to say that it shall apply after six hours. Duty comes in there to forbid; the equation is not balanced.

This bill is a part of a certain reactionary policy. Make your con-ditions what you please for immigration and for attaining citizen-
ship, but make them such that the man can overcome them. Do not base them upon the accidents of humanity. If you say that a man shall not come in or shall not become a citizen until he can read and write our language, until he can pass an examination upon the Constitution, or until he shall have accumulated a thousand dollars, or any one of many qualifications and limitations that easily suggest themselves, you still leave it open to any man in the world to overcome this and come in; but if you say he shall not have this, that, or the other right because he is yellow, or because he is black, or because he was born in a certain place, I hold that it is a departure from the republican doctrine. I hold it to be the sound doctrine of a republican government that you have no right to base your limitations upon the mere accidents of humanity.

If we are to take a step backward in this thing, I beg you to be patient. I do not think it is necessary to fear that before we pass the bill another ship may come in with two or three hundred more Chinamen, or to fear that another indignation meeting may be held. I beg gentlemen to be a little patient with us. If it is only an apparent step backward, but really a needed advance of freedom and free government, strip from the bill something of its harshness and savagery. Give it a plausible preamble at least, if truth will permit it. It is a painful question, sufficiently troublesome to Christianity and to statesmanship, but such a bill as this, in my judgment, is not indispensable to the Republic. If our traditional policy referred to by our commissioners to China, if our gospel of the Declaration of Independence and all our professions and regard for humanity despite its accidents are to be set aside, are to be departed from in a bill that I for one shall dare to be ashamed of, be a little patient with those of us who are old-fashioned.

IN THE SENATE OF THE UNITED STATES,
April 26, 1882.

The Senate having under consideration the bill (H. R. No. 5804) to execute certain treaty stipulations relating to Chinese—

Mr. HAWLEY said:

Mr. President: I supposed that the Senate was done, and certainly that I was done, discussing this bill; but having listened to some of the remarks in favor of the bill, I am impelled to submit a few myself, in opposition. I propose to make only some few points and not to enlarge upon them. I caught part of the words of a Senator yesterday, dwelling upon the evils of cooly immigration, and I desire to correct him simply in a matter of fact. I believe there is none of such immigration or importation, and certainly this bill does not attempt to legislate upon it if there were any. It would be unnecessary; there is a law upon the statute-book, passed, I think, in 1862, which prevents cooly immigration. As to the question of fact as to whether there is anything of the kind nowadays, I beg to read a few words from a constituent, if not an American citizen, of my
own town. By the way, I have had in my own district a Chinaman by birth, a naturalized American citizen, an intelligent and educated gentleman, who did me the honor to vote for me when I was a candidate for Representative in Congress. I believe none such live there now.

Mr. FARLEY. Will the Senator allow me to ask him one question?

Mr. HAWLEY. Certainly.

Mr. FARLEY. Were they naturalized in the State of Connecticut, or where were they naturalized?

Mr. HAWLEY. They were naturalized in Connecticut, I believe. One of them I know was a graduate at Yale College, had taken prizes in English composition there, and was regarded as a man of superior ability and education. One of these intelligent Chinese gentlemen, residing in my own town and within a quarter of a mile of my own house, communicates to the New York Herald the following:

I constantly see in the newspapers, particularly the California ones, the statement that the Chinese immigration is a kind of slave trade. On this ground the Alta California charges the Senators from Massachusetts with inconsistency in having opposed negro slavery and now advocating a system of Chinese slavery. Remarks like this are based upon a false assumption. Emigration from China, whether to Australia, Singapore, or the Pacific coast, is in no sense cooly emigration. In fact the only coolie emigration that ever did occur was from the single port of Macao to the two countries—Cuba and Peru. Macao is a Portuguese colony, and trade was conducted by Portuguese, who reaped the benefit. The Chinese Government always opposed it, and Chinese law prescribes the penalty of beheading to any of its citizens who shall engage in it. This offense is put upon the same level with piracy.

After persistent efforts the Chinese Government succeeded in inducing the Portuguese Government to abolish the cooly trade in 1874. KWONG KI CHIU.

He was late a member of the Chinese Educational Commission.

Therefore I conceive that the argument against cooly immigration has no force here for the reason that it is already sufficiently forbidden by statute twenty years old, and for the further reason that there is none, and there is no tendency of it toward this country, because cooly emigration is punished by beheading in China.

The Chinese immigration, while it affords a serious question to the people of the California coast, and I sympathize with certain of their feelings, has not, in my judgment, reached anything like the threatening proportions which have been represented. I am sorry it is not distributed more throughout the country, for I appreciate the painfulness of my position in discussing a matter that does not immediately affect my own State at all, and I am willing to contribute to the charitable and sympathetic feeling for those who sincerely feel themselves afflicted.

I am willing to regulate the immigration. I think the Chinese Government is willing. I am willing to limit it; to restrict it. I admit, nay more, I assert, the right of a government to defend itself against a hostile or dangerous immigration. It is a question of fact as to whether this is such. It is further a question for rightful consideration whether we are wisely legislating against it even if there be an evil. If we could suppose a bill that should admit only such Chinamen as came with their families, and admit such only as came with a purpose to permanently settle with us, admitting none to be citizens and voters unless they should be able to speak and read the English language, you certainly could defend such a bill with much more consistency than you can defend this bill as it stands with the clause forbidding naturalization, because that makes no
distinction upon the ground of merit or education or intelligence or patriotism. It simply excludes a man by reason of his race or color, and we have said as emphatically as we could to the world that no man should be excluded for that reason.

An exclusion based purely upon race or color is unphilosophical, unjust, and undemocratic. For the purposes of my argument I do not care what you make the restrictions, but make them such as may be overcome, and then apply them to one race or to all races if you choose. When you say that a man is excluded because he is of a certain race or a certain color, that is something from which he can never recover by his own efforts, and, as I say, it is not only contrary to our fifteenth amendment, but contrary to our whole tradition and policy.

Possibly I could draw a bill that I should be willing to support, but it would not base a distinction upon the fact that a man is a laborer, which I consider an insult to labor all over the world, nor upon the fact that he belongs to any particular race. I should base it rather upon his moral and intellectual character and his purposes in coming to this country.

You say these men come and make a little money and go away and leave their families at home, where they support them cheaply; and that they compete with our laborers at a very small price. I admit there is some force in it; but in answer to that, I can say that the prices of labor are very high in California certainly, and I can say that one of the objections to this very Chinaman is that he is too shrewd in taking care of his own interests. Therefore I am very sure that he is not permanently going to labor for less wages than he can get; he will get all he can in the end. I think that objection is rather overstated; too much weight is given to it, but it has some.

Mr. President, it is best for us to legislate in times of excitement and under popular impulses rather in accordance with the principles that we have adopted in cooler days or when no imagined emergency was resting upon us. The general determination of this country after a hundred years of experiment in free government is different from that enacted in this bill. I beg leave to say that I think this American Congress is acting under the influence of a temporary passion and a prejudice that I am sorry to say is not so temporary.

It is not the first time in our history that we have felt these storm-waves of class and race prejudice. All of us of middle age here can well remember that it is but a comparatively short time, as it seems to us, since there was something more than a prejudice against a race of which no politician now says any evil—against the Irish. All remember that in some of the leading cities of the country their schools and convents were destroyed. I remember how Philadelphia was disgraced by the riots of the anti-Irish; I remember how the neighborhood of even conservative Boston was disgraced by riots.

Mr. MORRILL. And Baltimore.

Mr. HAWLEY. And Baltimore and other places. I remember further, when the prejudice not only went against the Irish but when it went against all men of foreign birth, and when a great party, a secret party, an oath-bound or promise-bound party—I never belonged to it, thank God—a secret party of some description, arose in this country and carried portions of it as by a tornado, based upon a hatred and jealousy of the foreigner of all sorts.

The good sense, the democratic principle, the Christian principle of the American people may be trusted to ride over and put down all such temporary hatreds and prejudices. I have mistaken the
country I love if it was intended to be a country of such sentiments. The prejudice against the French, the cultivated and generous and chivalrous French, who were our friends in the Revolution, was very great at certain periods in our history. I need not speak, of course, of another prejudice which we are overcoming; a prejudice against the Englishman and the very name of Englishman. The prejudice of class hatred and race hatred against the African has made the great chapters of our history. I did think until this bill arose that if there were any question in the world this people had discussed in the light of republican and Christian principle it was the question of race hatred.

For purposes known to Him best, the Almighty permitted us to bring to this country hundreds of thousands, now millions of Africans. It is not necessary that I should discuss the prejudices under which they were compelled to labor. I wish I could quote literally the words of Abraham Lincoln when he said, in substance, that for every drop of blood drawn from the back of the slave by the lash white men must shed another drop. We have done so. I think we have overdone it. We have upon the statute-book at least recovered from this. That hated, despised, and condemned and lashed African stands now as a freeman. He has occupied this Chamber; he has occupied this seat; he is a voter and a citizen. He is spoken of with respect in all our debates, and if I could speak of executive sessions, which I do not, I could tell of the high commendations given to individuals, eminent men among them. We are as nearly recovered from that as a nation can well be after four years of awful war in which we made due atonement to Almighty God for our sins.

I do not know but that I am preaching. I am a little too much, perhaps, of an old-fashioned Puritan, but I was taught to believe that a government not founded upon the truths of God was founded upon sand, and that it is unsafe to disregard them.

This bill is vastly improved, but I hold it to be still a violation of the treaty, for as I read the reports of our commissioners concerning their conferences with the Chinese commissioners I do not understand that they were anticipating any such exclusion as even a ten years' limitation. The utmost of which they speak is five years.

The impression one gets from reading the reports of the commissioners that the Chinese anticipated, not perhaps a diminution of the total number, but a temporary limitation, a restriction of one year, or two years, or three years, or even, it is said, to the extent of five years, or alternating years, the immigration so regulated by a certain number admitted each year that the total should not be increased in the country.

I object very seriously to that section of the bill which prohibits naturalization, and I have indicated perhaps sufficiently my reasons. It is undemocratic and un-American. I object further to certain very odious details in this measure. I casually referred to some of them yesterday. I find in the second section that the master of any vessel who shall knowingly bring within the United States or permit to be landed any Chinese laborer shall be punished by a fine of not more than $500 and imprisonment for not more than a year. I find further in the eleventh section something I think contradictory to that, or which may perhaps require attention from the friends of the bill:

That any person —

Not a master of a vessel alone; he might be supposed to be more guilty than anybody else, but —

That any person who shall knowingly bring into or cause to be brought into the
United States by land, or who shall knowingly aid or abet the same, or aid or abet the landing in the United States from any vessel of any Chinese person not lawfully entitled to enter the United States, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined in a sum not exceeding $1,000, and imprisoned for a term not exceeding one year.

The same term of imprisonment, but double the money penalty. The captain of the vessel may be fined $500 and imprisoned a year, but any citizen, which includes in its general term, of course, the master of the vessel also, shall be punished by a fine of $1,000 and imprisoned for a term not exceeding one year. Mind, this is not alone the bringing in of Chinese deliberately from China, 3,000 miles across the sea, when the captain knew well what he was doing all the time, or might well have known, or ought to have known; but it is knowingly bringing in or causing to be brought in, or knowingly aiding or abetting the same. That is the clause to which the Senator from Florida [Mr. Call] instinctively objected yesterday as contrary to his reading of our doctrine of liberty as brought down from English law and history.

Mr. EDMUNDS. Will the Senator from Connecticut allow me to suggest to him—

Mr. HAWLEY. Certainly.

Mr. EDMUNDS. That I think on a more careful reading he will see that he is mistaken in supposing that there is a difference in the quantity of penalty in these two cases. In the first case it applies, as he has correctly stated, in section 2, to the master of a vessel who knowingly brings in Chinese laborers, and he shall be punished, on conviction, by a fine of not more than $500 for each laborer so brought in. When you come to section 11, it is now so framed, as the committee thought, as not to touch the master again; but, first, applies to bringing by land into the United States; and, secondly, to aiding or abetting the bringing in by water. It then provides that such a person shall be deemed guilty of a misdemeanor and be punished by a fine not exceeding $1,000. Under that section, if one aids and abets in landing twenty, fifty, one hundred Chinese laborers, it makes one single offense; whereas the second section is more intense in its punishment, I submit to my friend, than the eleventh section is.

Mr. HAWLEY. Yes, but the eleventh section punishes any one who aids or abets in the landing in the United States from any vessel of "any Chinese person."

Mr. EDMUNDS. Yes.

Mr. HAWLEY. Therefore, if there be a hundred or more, is the aider and abettor punishable for but one offense, when the law threatens punishment for aiding the landing of "any Chinese person."

Mr. EDMUNDS. The Senator is mistaken, if he will pardon me. The law is clear in a statement of that kind. It has been decided a thousand times that if you aggregate a hundred persons they merely make the mass. In order to hold the master liable there for each person it is necessary to say so, as it is said in the second section.

Mr. HAWLEY. Then the Senator holds, and I bow to his judicial construction, that if I should aid or abet in the landing of a thousand I could be punished no more than the man who aided or abetted in the landing of one; I could be punished by a thousand-dollar fine and imprisonment not exceeding one year.

By the way, the twelfth section provides that no Chinese person shall be permitted to enter the United States by land, and any Chinese person found unlawfully within the United States shall be caused to be removed by the President.
I should feel, I think, a sense of shame if I were called upon to explain that provision to an intelligent Chinaman or an intelligent citizen of any European government. I think I should have to say to him that my individual preference would have been to impose that duty upon a marshal or deputy marshal, or the collector of a port, or some officer of inferior importance; but by this proposed statute the Chief Magistrate of the United States is made the captain of the hunters; he is compelled to cause those Chinamen to be removed.

Mr. MILLER, of California. Will the Senator allow me to interrupt him?

Mr. HAWLEY. Certainly.

Mr. MILLER, of California. Does the bill say that the President of the United States shall do this?

Mr. HAWLEY. I said he would have to cause it to be done. I referred to the section which provides that it shall be done by direction of the President.

Mr. MILLER, of California. That means that the President shall make such needful rules and regulations as he may prescribe, and he may designate a marshal or any one else for the purpose.

Mr. HAWLEY. It is to be done by the direction of the President. He is the chief of police for that purpose, and ought to issue a code of instruction to all the deputy marshals, and I suppose perhaps also a proclamation, and an earnest request if not a command to me and to you and to all of us to disclose a Chinaman, to catch him if we could. I do not know but he would have authority to direct me as a citizen, as part of the posse comitatus, to assist in arresting such a person or to have something to do as a witness before the court to prove that he is unlawfully here. He would call a long time on me before I should go under those circumstances. It is too much like the old fugitive-slave law. I do not understand this aiding or abetting the landing of a Chinaman. I am very sure if I were standing on the wharf in San Francisco or in New York, and looking at the landing of passengers from a ship, coming from no matter where to the land of liberty, of universal freedom, and where we are forbidden to exclude any man by reason of race, color, or previous condition of servitude from citizenship even, and if I should see coming down the gang-plank some yellow men among the rest, I should not trouble myself to inquire whether they had papers or not; and yet if I should hear anybody on board say, "These men are not coming, I think, under the law; I think they have not their permits, they have not their passes," (after the fashion of the old slave system,) and if I should say, "Very well, I do not care," I am quite sure I should be guilty of aiding and abetting the landing of those people. I think under such a statute it would be my duty to inform the President of the United States, so that he might cause those people to be removed under his direction.

Sir, do you suppose that you will get anybody to obey such a law outside of the sand lots? We have made experiments like that. I referred casually to that yesterday. I refreshed my memory of a bitter old time by looking at the fugitive-slave law of 1850. It is not necessary to go into details, for that terrible law burned itself into the memories of the people of that day; but it is extraordinary in its despotism. It provided—

That any person who shall knowingly and willingly obstruct, hinder, or prevent such claimant—

or shall rescue or attempt to rescue such fugitive from service or labor, or shall aid, abet, or assist such person so owing service or labor as aforesaid, directly
or indirectly, to escape from such claimant, * * * or shall harbor or conceal such fugitive—

Shall permit him to sit in a shed in the back yard or lie there over night and give him a crust of bread. Any such person—

shall, for either of said offenses, be subject to a fine not exceeding $1,000, and imprisonment not exceeding six months.

The penalty was not so great as it is to be in the case of aiding and abetting the unlawful landing of a Chinaman. Moreover, when the hue and cry was raised against the black man the law said:

And all good citizens are hereby commanded to aid and assist in the prompt and efficient execution of this law, whenever their services may be required, as aforesaid, for that purpose.

The marshal was authorized to call out the *posse comitatus*, to call upon the bystanders and good citizens of every community to aid him, and they were subject to penalty if they did not go. I justify my reference yesterday to the pending bill as analogous somewhat in its general character and in its antagonism to Christianity and humanity, and in its non-conformity to old-fashioned English laws, to the fugitive-slave act.

Mr. BUTLER. May I ask the Senator if the words "aiding and abetting" have not a very well recognized meaning in the criminal law of this country?

Mr. HAWLEY. Certainly, I suppose they have, and I will confess that I do not precisely remember what it is. I am not sure but that I will make my case a little stronger; I will suppose myself standing upon the wharf, and, if you choose, giving my hand to a Chinese man or woman coming down the gang plank, and being informed by the Chinaman that he had no pass or certificate I invite him home to dinner in my house. I will make it aiding and abetting.

Mr. BUTLER. The Senator certainly has not read the law-books, or he would not put that construction upon it.

Mr. HAWLEY. Then I will say that I did aid and abet. Will the gentleman give me his own definition of aiding and abetting? I should be very happy to have the Senator from Vermont [Mr. Edmonds] tell me what aiding and abetting is if it be not physical assistance, as housing and feeding and moral approval also. I will suppose that the moment such a Chinaman landed I take him to my house and give him a free dinner, tell him that I thank God he came to my country, teach him what the flag means, and read the Declaration of Independence to him, and ask him to send for his wife and children. Would not that be aiding and abetting?

Mr. BUTLER. He would be here then.

Mr. HAWLEY. He would not be here when I first saw him; he would be on the deck of the vessel.

Mr. BUTLER. He must be here when you invite him to your house.

Mr. HAWLEY. He would be on the deck of the vessel; I would meet him beyond the harbor, three miles beyond Sandy Hook, if you please. I will make it aiding and abetting.

Mr. EDMUNDS. If my friend from Connecticut is really in earnest, as I presume he is not, in talking this kind of law, I should be glad to say to him that I think he will find that what aiding and abetting means in any unlawful enterprise, (granted that we declare it shall not be lawful for a certain particular description of Chinese to come,) is the entering into a scheme of bringing Chinese into the United States against the law and in spite of it, and in order to defy and
evade the law. If the Senator wishes to do that, it is merely because he does not like the law and thinks it is unconstitutional; but short of that he could not be convicted of aiding and abetting anybody.

Mr. HAWLEY. I do not pretend to measure my knowledge of the law, criminal or civil, with the Senator from Vermont, but I venture to say that it is quite possible for one to make himself an aider and abettor without going to China for that purpose.

Mr. EDMUNDS. I think so.

Mr. HAWLEY. I venture to say that it can be done on the street or the wharf at New York.

Mr. BUTLER. It requires some overt act.

Mr. EDMUNDS. It requires both the intention and the act to defeat the law.

Mr. HAWLEY. Then, I say, make what limitations you please upon it, men will aid and abet in spite of your law and in contempt of it and be justified by public sentiment eventually, as they were in the case of violations of the fugitive-slave law, and that to a large portion of the country your law will be substantially a dead letter, as being against the moral sentiment of the people.

I object to the expression “laborer” without further specification or description. Let this proposed statute be read a hundred years hence, dug out of the dust of ages and forgotten as it will be except for a line of sneer by some historian, and ask the young man not well read in the history of the country what was the reason for excluding these men, and he would not be able to find it in the law. He would find the Chinese laborer excluded for no cause except that he is a laborer. Will that answer the question? Is that in accordance with the doctrines of the dignity of labor which we have taught? If he goes further for a reason, all he can find is in the preamble, where it says that the coming of Chinese laborers may endanger good order. I think that is a monstrous preamble. I should have supposed that when the committee had time for sober second thought and amended this bill they would have in some way modified it in that respect.

[Mr. FARLEY rose.] I know it is quoted from the treaty.

Mr. FARLEY. I was about to remark to the Senator that if the student a hundred years hence should read the law, the chances are that he would also read the treaty, in which it is provided that such legislation may be had as is set forth in the bill.

Mr. HAWLEY. It may be, but the treaty does not disclose any good philosophical or economic reason for it. It says this immigration endangers the peace of the country, the good order of the country, but there is no explanation of the reason why it endangers good order.

Mr. EDMUNDS. I might make a suggestion to my friend from Connecticut, if it would not disturb him, on this point.

Mr. HAWLEY. Not at all.

Mr. EDMUNDS. As I think he knows, I agree in his general notions about the value of universal humanity; but history does seem to prove that good order on the Pacific coast has been disturbed, to put it from his point of view and mine, not by the misconduct of some Chinese laborer or gang of Chinese laborers, but by the sand-lot people, who have raided Chinatown and have upset everything with cruelty and wrong. That therefore endangers the good order of the community. It does not make any difference which class of the community it is that disturbs the public peace, the public peace is disturbed and if you can save it by giving time for reason to restore itself and passion to cool, is it not wise?
Mr. HAWLEY. The Senator from Vermont has not at all modified what I was saying or my impression of it. The student will read the expression "endangers good order," and his first thought will be that the people who were coming here were very bad.

Mr. EDMUNDS. Then he will not be a philosophical student.

Mr. HAWLEY. That is what the preamble says.

Mr. EDMUNDS. Oh, no.

Mr. HAWLEY. Let us see:

Whereas in the opinion of the Government of the United States the coming of Chinese laborers to this country endangers the good order of certain localities within the territory thereof.

Mr. EDMUNDS. It is not the people who come who endanger it of themselves, but it is the act of coming. That does not imply that it is the act of the people who come, but that the fact existing of their coming here produces a disturbance. We all know that it does produce a disturbance; but I believe with my friend, in general, that it is without their fault.

Mr. HAWLEY. The Senator from Vermont, I understand, believes that it is without the fault of the Chinese?

Mr. EDMUNDS. In general I think so.

Mr. HAWLEY. I think any stranger to this history reading the preamble would say that the fault does appear on the face of it to lie with the Chinaman. It appears to be a fact that if the Chinese laborers come here, somebody on our soil will trespass upon the personal rights and natural rights of the Chinaman, which is the fact.

Mr. EDMUNDS. Then let us protect the Chinamen by having them hold up a little while until they get over their trouble.

Mr. HAWLEY. But unless there be some reason beyond that our first duty is to compel the people on our own shore to obey the law. That is the first question; it is not to say that these sand-lot riots are to be excused. The mobs of California or of any other part of the country would be excused upon that ground. A statesman and an executor of the laws of this country has no right to begin by the removal of the innocent party. I protest against that doctrine. I had my first lesson in the putting down of mob law during the theater riots of New York in 1849, when as a youth I was in and out of the theater both of the riotous nights, and I was never more proud of the execution of law in my country as when I heard the rattle of musketry under the windows of the theater and stood there close to the wall and watched the shooting down of twenty-five of the mob. I went the second night with the greatest satisfaction to the theater because Mr. Macready was invited by the leading citizens of New York to come there and repeat his performance, though, under the view of the Senator from Vermont, Macready should have been removed from New York because his coming the second night was going to endanger the good order of society.

Mr. EDMUNDS. The Senator is entirely mistaken, and he entirely misrepresents me, without meaning to do it. Mr. Macready had a natural right, under the law as it stood, to go where he did and do what he did, and probably it was a wise thing for law and good order that all the forces which he and his friends and the law could muster should carry it out. I maintain that no foreigner has a natural right to come to this country at all. If I am wrong about that, my whole case is gone. It turns upon our own judgment of what is wise for our own welfare. If that be so, the foreigner having no natural right to come, if his coming produces, with no fault of his, a riot and
discontent of wicked men on any coast, be it East or West, that disturbs the peace and good order of innocent men as well and upsets society, then I say it is wise for that society to hold up a little while and see what can best be done next. That is the distinction. I hope my friend sees it.

Mr. HAWLEY. That is not the precise point of difference between us. I hold the first duty of a decent government to be to compel the rioter to be silent, that the law-makers may have time to consider whether they will exclude the men hereafter or not.

Mr. EDMUNDS. So that if the nihilist or whatever criminal may exist in any other country—

Mr. HAWLEY. That is dodging the question. The Senator says a "nihilist or any other criminal."

Mr. EDMUNDS. I know, but we are on the principle of the question whether the Government can say to any foreigner, "Wait until we can get our own state of society so that it may be willing to receive you." The nihilist, the murderer of kings and princes, and of all other people who do not agree with him, chooses to say, "It is a little too hot for us in Russia, or Germany"—or wherever it may be, the socialist, the communist in Paris says, "The Republic cannot stand us any more, and it is too hot for us here; we will now all emigrate to the United States." They come. The people of New London and Burlington, and so on, do not want that sort of people; they are not their kind, and they are discontented at it. Now, my friend says, if I understand him, "Let them come in; do not stop to inquire the propriety of their coming, but first let them come in peace, and establish themselves and their doctrines, and then consider the matter." I do not agree to that.

Mr. HAWLEY. I am glad the Senator does not, because I do not know anybody so foolish as to do so.

Mr. EDMUNDS. It is the same case exactly.

Mr. HAWLEY. Not at all. I was not talking of men known as the political thugs of the world, universal conspirators and murderers, nor was I speaking of criminals of any description. I was speaking of a peaceable, industrious, too economical and careful class of people, who come to this country.

Mr. EDMUNDS. Then it comes to a mere question of expediency. You have to find first.

Mr. HAWLEY. It is a question of expediency whether we will exclude them or not. They are not criminals. They are confessedly, according to all men's testimony, not doing anything themselves to disturb the peace of any community. They are here under a solemn treaty with the same right to protection that Macready had. They labor. They labor too much. They work. They work too cheaply; they save too much money, and therefore certain people in this country are so dissatisfied with their coming that they raise riots and threaten greater riots.

What did I see on the floor of the Senate? I saw a Senator arguing in support of this bill and another Senator rising when the question of consideration was raised and asking what was the condition of public sentiment on the Pacific coast, and the Senator who was anxious to bring the bill up said there was a condition of very great excitement over there, and there was danger of riot, and that was considered an argument in the American Senate in favor of immediately bringing up the bill for consideration. The American Senate should have said, "The consideration of this question is postponed one month. General Sherman, keep order on the Pacific coast."
raise the question of riot or no riot; we will have no debate on that question." That is what the American Senate ought to have said.

Mr. FARLEY. Will the Senator allow me a moment?

Mr. HAWLEY. Certainly.

Mr. FARLEY. The Senator I suppose refers to the remark I made in the Senate.

Mr. HAWLEY. I do not remember really who it was; I remember that it came from that side of the Chamber.

Mr. FARLEY. At the time the proposition was made to refer the veto message and bill to the Committee on Foreign Relations, after the original bill had been vetoed, I stated as an objection to such a reference that the people on the Pacific coast were anxious and excited over the proposed veto and that there was perhaps danger of violence, violence having been heretofore resorted to in my State; but the better classes of people, all classes, not the sand-lotters that my friend from Connecticut refers to, but the most respectable people in that State, united in order to avoid that state of things; and I stated that the excitement there was so great that they were afraid of violence in the midst of that great turmoil.

I want to correct the Senator in another statement which he made in regard to the sentiment of the people of the Pacific coast, and particularly of California. The feeling there is not confined to the element that he has referred to, the sand-lot element. It extends throughout the entire State, embracing all classes, merchants, farmers, lawyers. The mayor of the city of San Francisco, a leading Republican, a man who has been probate judge and county judge of that city for years and years, publishes to the world his views upon this subject, and does not go further than the people the Senator refers to, who have been sand-lotters, except in their violent way of expressing themselves. The people of that State, 152,000 out of 461,000 voters, voted against the further immigration of Chinese into this country and excluding those who are here if we could do so legitimately under the forms of law.

Mr. HAWLEY. I am well aware that a majority of the people of California love peace and will obey the law; but they are not the people to whom I refer. It runs through all of the gentleman's own statement just made that there is an element in California of which he was afraid, and he had good reason to anticipate the open, defiant violation of law if we did not act speedily upon this subject.

Mr. FARLEY. I did not say that I was afraid of any particular element of the State. The whole people of the State were alarmed for fear that there would be riot or violence. I did not say by whom; I did not say by the sand-lotters or any other class of people.

Mr. HAWLEY. I will not bring the gentleman into such a condition as to prejudice him with the sand-lotters, if I can help it. He has just said and repeated it that the people of that coast were greatly apprehensive that a certain element known as sand-lot people would break out into open violence if we did not act speedily. He has said that three times over now. That is all I said to begin with. But I have prolonged these remarks fourfold beyond what I intended.

Mr. FRYE. Before the Senator sits down I want to call his attention to one point that he has not noticed.

Mr. HAWLEY. Certainly. I marked several points in the bill, but I did not care to prolong the debate.

Mr. FRYE. Section 16 is the most outrageous one of the whole lot; under which, if Mr. Low, of New York, sends a ship worth $100,000 to China to buy tea, and the master of the ship takes a Chinaman
and brings him into San Francisco, the master may be fined $500 and imprisoned one year, and in addition to that the vessel-owners are punished by a fine of $100,000; that is, a forfeiture of the ship without any remedy whatever.

Mr. HAWLEY. I thank the Senator. I had marked that section on this copy of the bill particularly. I call attention to that again:

That every vessel whose master shall knowingly violate any of the provisions of this act shall be deemed forfeited to the United States, and shall be liable to seizure and condemnation in any district of the United States into which such vessel may enter or in which she may be found.

The man who knowingly brings one Chinaman over here illegally is to be fined $500 and imprisoned one year, and the $200,000 clipper ship is liable to seizure and forfeiture.

Mr. President, these things overleap themselves. When this question was taken up yesterday, I took the bill and silently thought: "they have really modified the bill a good deal now, and I will read along patiently and try to avoid saying another word on this question; I am overridden; I am temporarily in the minority, but I can wait." I read on, and read on, until I came to these provisions, and then I uttered five lines of denunciation—I could not help it. I leave the bill to posterity for its condemnation. I plant myself here now, this moment, on the ground of unconditional hostility and denunciation. I will make no terms with it now or elsewhere, here or hereafter, at any time.
IN THE SENATE OF THE UNITED STATES,  
May 3, 1882.  

RELIEF OF DR. A. SIDNEY TEBBS.  

THE REPEAL OF SECTION 1218 REVISED STATUTES, WHICH PREVENTS PERSONS ENGAGED IN THE REBELLION FROM HOLDING COMMISSIONS IN THE ARMY OR NAVY.  

The Senate, as in Committee of the Whole, having under consideration the bill (S. No. 296) for the relief of Dr. A. Sidney Tebbs— 

Mr. HAWLEY said:  
Mr. PRESIDENT: In some respects I greatly regret that this debate has arisen. I have kept silent when there were many things to which I would have been glad to reply. A sectional discussion, or rather a discussion reviving the issues of the war, has been precipitated upon the Senate, not by the action of any Republican Senator. The original bill for the relief of Mr. Tebbs, which would have permitted him under the usual proper regulations to enter the service of the United States, would have passed this Chamber without an objection. It was an exceptional case of a man who had engaged in the war on the confederate side, in the days of his extreme youth, and who is believed, according to the representations of his friends, to be a man of excellent character and qualifications. I know of nobody who would have objected to his becoming an Army surgeon; but thereupon comes a Senator, excluded himself by section 1218 from an opportunity to take service in the Army of the United States—he may not desire it, but he is excluded by law—and moves to repeal that statute.  

Speech after speech has been made upon it on the Democratic side; only two Senators (and they very briefly indeed) have said anything upon this side to revive these old questions. I am willing to let them rest. Time is disposing of many of them without argument. But we have heard from a number of gentlemen affected by this particular section appeals to us to wipe this statute off, not upon the ground that time has made it unnecessary, but upon the ground that it was originally wrong. It is not repeal that they ask, but repentance. The moment they take that ground they sound the long roll and call into line the forces that organized twenty years ago for and against the Union. I say the war for the Union was right; I say the war against the Union was wrong; but there are men here who have tried to make us believe that it did not make much difference which side they were on, and that by this time it does not make any difference how the Senate of the United States votes as to which was right and which was wrong.  

The Senator from Indiana tells us we did not fight for human liberty. I am greatly tempted to devote three or four minutes to brushing away some common trash upon that subject. The Congress of the United States, representing the North and the loyal sentiment of the whole country, was perfectly willing to see the rebels lay down their arms and the flag wave triumphantly and peacefully over the whole Union, even if slavery did continue to exist. That is true, and one cannot infer more than that. Mr. Lincoln voiced the loyal sentiment of the country when he said that he was willing to restore the Union even if slavery remained—  

Mr. VOORHEES. I may have misunderstood the Senator. Does the Senator represent me as saying that the North did not fight to restore the Union?
Mr. HAWLEY. No. This was the Senator's expression—I wrote it down at the time—that the North "did not fight for universal liberty." On that point the Senator took issue with the Senator from Kansas.

Mr. VOORHEES. Yes.

Mr. HAWLEY. Now, sir, let us deal frankly and truly with this question. I never was either a Whig or a Democrat, but an old Abolitionist and a Radical from the beginning. I do not know what the word "Stalwart" implies, but very likely I am not stalwart enough. I never belonged to any party that did not fight slavery from the time I became a voter, in the autumn of 1847. A great deal of nonsense is talked on this subject. The issue that shook this continent and the world was one between human liberty and human slavery. That is exactly what it was; disguised, diverted, in many ways concealed, sometimes denied, that was the issue at the foundation of the great struggle.

The sentiment of the free people of the country said that slavery must not go into the Territories; it said that the repeal of the Missouri compromise was an outrage upon the plighted faith of the nation; and that sentiment carried the Presidential election of 1860 under constitutional forms. A portion of the country undertook to secede. Even those with whom I united and sympathized, even the Abolitionists themselves, were perfectly willing to leave the destruction of slavery to legitimate natural causes and political influences under the Constitution; but they were never willing to say that they desired that slavery might live, never willing to accept it, never willing to give slavery any color of natural right; and when the war broke out and Congress did make the declarations to which I have referred, that if the rebels would come back here and lay down their arms the North would let slavery alone as it was, they simply meant that they would kill it in their own peaceful way. That is what they meant and they never should have told the South anything else, because anything else was not frank and candid. They did deny the right to extend it into the Territories. They claimed that the Constitution and policy of this country fundamentally and generally were in favor of universal liberty; that slavery was a local exception; that it had some measure of toleration; that they were willing to see it abolished by means of various measures of gradual emancipation in obedience to the moral and religious sentiment of the world. All that they said; but that they were willing to guarantee it they never said, nor could you have ever got the loyal sentiment of this country to promise that slavery should live one hundred years, or fifty years, or twenty-five years as the price of saving the Union. When the lines were drawn, they simply meant that they would kill it in their own peaceful way. That is what they meant and they never should have told the South anything else, because anything else was not frank and candid. They did deny the right to extend it into the Territories. They claimed that the Constitution and policy of this country fundamentally and generally were in favor of universal liberty; that slavery was a local exception; that it had some measure of toleration; that they were willing to see it abolished by means of various measures of gradual emancipation in obedience to the moral and religious sentiment of the world. All that they said; but that they were willing to guarantee it they never said, nor could you have ever got the loyal sentiment of this country to promise that slavery should live one hundred years, or fifty years, or twenty-five years as the price of saving the Union.

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When the lines were drawn, to tell the truth before God and man, it was essentially a war between slavery and liberty.

The champions of the Union postponed the time of the proclamation of universal emancipation—delayed, and delayed, and delayed measures to that end, hoping, and hoping, and hoping for union without resort to radical action; but the time came when they proclaimed freedom, and from that moment on there was a new fire in the heart of the people of this country, and when they sang the song of John Brown it was not mere sentiment. It put red-hot blood in every vein of the soldiers of our Army; and old Democrats, old Whigs, old Freesoilers joined in it. The first regiment I heard of as singing that famous refrain was one commanded by Fletcher Webster, son of the great expounder and defender. From that time the war went on. It was three years before this Northern people were in earnest. They drew their lines and adopted again and again the simile of Winfield Scott—the anaconda drawn around the Southern confederacy would strangle it. They waited and they
temporized and they paltered. It was not until the winter of 1863-'64 that the conviction really came to the people of the North that the whole South—many of us knew it well long before—was dead in earnest in this matter. It was not, I may say, until the spring of 1864 that the nation really rallied with all its full power; and, sir, if we had not won in 1864 we should have continued it in 1865; if we had not won in 1865 we should have continued it till 1868, because if I may judge by those around me we had but begun to fight and but begun to die so long as the Union was not preserved.

Let us talk sincerely and candidly. My Southern friends, after we had taken this ground—the Union must and shall be maintained, there is no institution or system of any description whatever that shall stand in the way of it—if we were right certain things logically and necessarily followed. We say we were right. How are we ever going to decide? Some Senator says God only knows. I bow reverently and admit it; but there are certain ways of arriving at that which must be accepted as right among men, and the last awful and great resort is the tribunal of war. We could go no further. We submitted to that, and that which we of the Union call right won; and therefore, so far as human laws and institutions and duties are concerned, leaving further judgment to the Judgment Day, so far as we practically are concerned, our side was and is right.

Nor will I vote for any measure, however trivial in importance it may appear, which demands that I shall repent of anything that was a logical incident to the one grand purpose. It was right to raise troops, it was right to incur debt, it was right to proclaim emancipation, it was right to disfranchise rebels, it was right to confiscate, it was right to forbid rebels holding office in the Army, it was right to do every one of a hundred logically incident things that we did do to carry out the one great purpose.

I know that as time passes we are willing to modify and we ought to modify. General Grant did not wait to ride through Richmond nor Petersburg, he hardly waited to brush the dust or take a meal before he telegraphed from Appomattox to Washington to stop recruiting, and then followed peace and the rapid disbandment of the great Army, and then came the painful duties of reconstruction, more embarrassing than the necessities of war, and measure after measure was passed. It was a queer time, a strange time. There were problems that puzzled the statesmen of the world, and we stumbled and staggered along, but yet nevertheless with the great resolute purpose to establish the Union and establish universal liberty, I affirm that we did the best we could, and as to all the great chief measures, I say more than that, we did right, and whatever our kindly feeling may be toward any human being, I submit that the most ardent confederate—

The PRESIDING OFFICER, (Mr. Harris in the chair.) The hour of two o'clock having arrived, it becomes the duty of the Chair to lay before the Senate the unfinished business.

Mr. HOAR. I ask unanimous consent that the Senator from Connecticut may conclude his remarks. ["Go on!" "Go on!"]

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from Connecticut will proceed.

Mr. HAWLEY. All these measures of reconstruction, all the chief and principal measures I hold were right, and I was about to appeal to the most resolute and earnest confederate, and the bravest and ablest soldier and statesman among them with this question: Would you ask me to give any vote here that would say that we in the field or those who legislated here were wrong?

Mr. BUTLER. Has anybody asked the Senator to do so?
Mr. HAWLEY. Yes.

Mr. BUTLER. Where and when?

Mr. HAWLEY. In the appeals made on this very bill.

Mr. BUTLER. Why, Mr. President, has anybody asked the Senator to do anything of that kind? I confess, after all this discussion, I do not see on the face of the earth what that which he has been talking about has to do with it. Because I get up on the floor of the Senate and say that I think it is unwise for a statute to remain on the statute-book, whatever may have been its rightfulness or wrongfulness at the time, because I say I think it is unwise to continue it, the Senator lashes himself into a fury.

Mr. HAWLEY. No, no.

Mr. BUTLER. He reads it as a lecture; he talks about prosecuting the war to abolish slavery, and about destroying people. There is nothing on the face of the earth to justify the discussion that I can see. I have taken no part in this debate because I do not think it is a matter of consequence.

Mr. HAWLEY. Is that the question?

Mr. BUTLER. But the Senator called for my question.

Mr. HAWLEY. I claim the floor.

Mr. BUTLER. Because I said—

The PRESIDING OFFICER. The Senator from Connecticut declines to yield further.

Mr. HAWLEY. I yielded for a question.

Mr. BUTLER. I have propounded the question: has anybody asked the Senator to say what he has stated he is called on to say?

Mr. HAWLEY. I propose to go on to show it. I deny being lashed into a fury or lashing anybody else into a fury. I never was more careful or more deliberate in what I said. That I speak with feeling I trust is excusable. That I am as extreme as those on the other side I deny. The Senator from South Carolina says that nobody has asked us to repeal this section on the ground that the original enactment was unwise or was wrong.

Mr. BUTLER. No, sir; I have not heard that proposition.

Mr. HAWLEY. On the ground that it was enacted in the heat of the sectional feelings of the war. That was one expression used in regard to it. An expression used again and again was that it was a monument of hate; and again it was said that the statute is a minuter of sectional strife and sectional bitterness.

Mr. BUTLER. Who said that?

Mr. HAWLEY. There was expression after expression to that effect made here, that it was a thing unjust to do and ungenerous to do, after we had accepted the surrender of the confederate officers and largely admitted them to the enjoyment of civil rights. I justly state, as every Senator must concede, the spirit of the debate. I say, sir, that this particular measure was right and wise at the time, and was one of those things that were inevitable concomitants and incidents of our legislation, after the war, if we desired to maintain and preserve that which we had won.

Gentlemen speak sometimes as if, because we admit their honesty therefore we admit our injustice. It is one thing to admit, as we do very candidly, that they were to a great extent entirely honest and sincere, but it does not follow therefore that we were wrong. It does follow that we should treat them with courtesy and with kind-
ness, considering and acknowledging their perfect personal sincerity; but that did not absolve us from the duty of legislating and even from the duty even now of maintaining some things that look in the face of them to be severe and harsh. It is not through personal unkindness; it is not through ill will toward them personally, but because it was a great war, because it buried hundreds of thousands of men, and we may not trifle with what was won by it. If it was not right, very right, and an awful and imperative duty, then it was murder, and that it was not. That it was right we left to the God of battles, and the decision happened to be with us, and that we must maintain.

I read long ago what seemed to me a very wise rule in cases of this kind to this effect: we must judge men by the light they had, but measures by the light we have. I judge the gentlemen who were engaged in that war by their life-long education and that of their ancestors under the influence of slavery; I judge them by the teaching of the doctrine of secession which they heard in their academies and in their law schools. I am willing to give to them all possible concessions and pay them all their just dues in the matter of personal regard for their belief in principle and for their gallantry in the field in defense of their ideas; but it remains for me to judge of the right and the wrong, and of the great constitutional and legislative measures necessary to sustain the war. Upon that judgment I must stand, and I cannot vote in any other way.

There are many other things that occur to me, but I am not going to enter upon this broad field of general questions any further than I have done. I am glad to make from time to time relaxations of the rigid rules adopted during and after the war; time shows that we can dispense with many of them. I think we can modify this. If the bill had come from the Judiciary Committee even accompanied with certain modifications of the test oath prudently devised, and appearing to be—for a great deal depends upon appearance in this thing, a great deal, as you will find—

Mr. BUTLER. I want to ask the Senator—

Mr. HAWLEY. Let me finish my statement; you will confuse it if you interrupt me now. If a bill or a series of bills had come from the Judiciary Committee, reviewing this field of restrictive measures, reported deliberately and carefully by such a man as the Senator from Vermont, [Mr. EDMUNDS,] chairman of the Judiciary Committee, and based upon ground that time and all its mellowing influences showed that these things might well be relaxed for the good of the country; such a measure or measures deliberately presented and supported, as they would have been, by able arguments, would have passed nemine contradicente through both Houses of Congress. But the very moment a measure is proposed and a virtual demand is made by men themselves engaged in the rebellion—do not ask me whether I regard them kindly or not, that is another question—the moment a virtual demand is made by them that these things shall be repealed because they are evidences of sectional strife and monuments of hate, and because they reflect upon the honor of gentlemen who happen to be affected, then you draw the lines and compel me to fall back on my position, that what we did to carry on that war was right, and that the incidental measures of legislation and action resulting from the general purpose were right. The moment that position is taken I wait for the time of relaxation and repeal; I simply say, "No, sir; those things were right, and until we argue on a different ground I cannot vote with you."