

COINAGE OF SILVER.

SPEECH

OF

HON. JOHN T. MORGAN,
OF ALABAMA,

IN THE

SENATE OF THE UNITED STATES,

FRIDAY, SEPTEMBER 29, 1893.

WASHINGTON.

1893.

SPEECH
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HON. JOHN T. MORGAN.

The Senate having under consideration the bill (H. R. 1) to repeal a part of an act, approved July 14, 1890, entitled "An act directing the purchase of silver bullion and the issue of Treasury notes thereon, and for other purposes"—

Mr. MORGAN said:

Mr. PRESIDENT: This called session of Congress has been convened for the purpose of taking into consideration, as we are informed by the President of the United States, two questions, the financial situation of the country and the remedy for it, and the tariff question. Those appear to have been the inducements, and the only inducements, which operated upon the Executive mind to cause him to call this extra session of Congress.

The tariff question, which was given precedence and priority in the discussions of the last Presidential campaign, both in the President's message and in the dealing of the two Houses with these two subjects, has been retired behind the financial question, so that now it plays for the present a quiet and very small part in the consideration of either House or the members of either House.

The members of both Houses of Congress have had their attention riveted upon the financial situation in the country, and it appears that the majority of them have had their attention especially fixed upon a certain proposition connected with the financial situation, which is supposed to be necessary to be carried into effect by enactments, in order to furnish an opportunity for the Congress of the United States even to consider any other feature of this great financial imbroglio in which we are involved.

One good effect has come from this concentration of thought upon the financial situation, and that is, that the people of the United States have been compelled, both by the stress of the situation financially and by the suggestions which have been made by the message of the President and other communications from him, to fix their attention upon the subject of our monetary condition and to begin to study it, every man for himself.

I am very proud to say, Mr. President, that it is a trait of the American citizen, whether he is a learned man or whether he is not a learned man—all of them have sagacity enough and knowledge enough to comprehend the simple propositions of government which are influential in their destiny—it is characteristic of the American people that they take up these subjects, and

they study very closely. They make up their minds as to such matters, and, once they have done so, they are not at all reluctant in the expression of their convictions at the ballot box; and when they have earnest convictions upon questions of great public importance, they are not at all chary in giving effect to those convictions, it makes no difference where those expressions may locate them in the following of political leaders, whether they are Democratic or whether they are Republican or whether they are Populist. It is a very important element in the American character that they will consider for themselves, first, what are their liberties; second, what are their rights, and, third, what are the duties of their representatives in taking care of those liberties and those rights.

The people of the United States were never before so exclusively concerned as they are now in the consideration of financial questions; and while there is enough of academic knowledge and doctrinal statement made in the two Houses of Congress and in the newspapers to befog the wisest man in the world in his approach to a rational solution of these questions, there is still a vein of practical common sense running through all these questions that the people themselves comprehend and they will act upon those ideas and not upon the ideas or explanations of the academicians or the doctrinaires.

This question, when it is settled at the ballot box, if it be not settled satisfactorily to the people in Congress, will be settled by them upon the commonest, simplest, plainest, matter of fact, everyday common-sense views and ideas, and we need not deceive ourselves that we shall be able to conceal from their sagacity and their penetration whatever is essential to their rights and their interests and whatever belongs to their constitutional privileges in our country.

So I shall not concern myself at present, or perhaps at any other time in this discussion, with following the Senators who have so splendidly stated and argued and illustrated the economic doctrines which belong to the great questions of finance, as they concern this country and all of Europe, and as they also concern Asia and other semicivilized countries, I will say.

I want, first of all, in performing a duty that I owe to my own constituency, to attempt to inform them through this channel, this honorable Senate and its RECORD, of what I conceive to be the present legal situation of this question, and what I conceive to be adequate remedies for the relief of that situation. Perhaps remedies that I may advert to may not be perfect, perhaps in some sense they may be experimental; nevertheless, I have some ideas upon this subject, and I should be derelict in my duty to my constituents if I should hesitate to express them candidly and frankly.

I must speak candidly and frankly, Mr. President, because this is a matter which concerns every human being in the United States. The most insignificant little child in the United States is concerned in the determination of the question which we have before the Senate now, and so is the greatest man, the wealthiest millionaire. All of them are concerned in it; no one can possibly escape the evils of the legislation which we may too hastily enact here, and no one can fail to share in its benefits if it is beneficial to the country. So it is a question of universal

significance and universal application, and it needs to be dealt with in a frank, fair, generous, and genuine spirit.

I am glad to find that the consideration of this question is not embarrassed by the party lines or divisions which have heretofore obtained in this country, which have so often swayed the Houses of Congress on this side or on that of important enactments, from the mere passion or love of party association.

We are here now considering this question independently of party considerations, and it is a very happy circumstance that we are, for when we shall have gotten through with the decision and when we shall have voted upon this bill or upon any of the amendments that may be offered to it, neither of the great leading political parties of the American people will be responsible for the result as a party. The Democratic party certainly can not be responsible for what the honorable Senator from Ohio [Mr. SHERMAN] and his following on the other side of the Chamber may do in respect of silver or any other feature of our financial system; and so the Republican party can not possibly be responsible for anything that the honorable chairman of the Committee on Finance [Mr. VOORHEES] may do here: and when the result is reached, it will be a nonpartisan result. Nevertheless, in reaching the result, the platforms of both parties may be shivered for aught that I know, or one may triumph and the other fall, or one construction of the Democratic platform may prevail and another may fail.

Under these circumstances there is brought to our attention, necessarily, a contemplation of what are the rights of the people of the United States in respect of money, whether that money is gold, or silver, or copper, or nickel, or paper. That is the fundamental inquiry: Have the people of the United States, as a people, as individual men, any rights connected with this subject that you may call constitutional or legal rights? Are their rights of such a character as that the Government of the United States and the Congress of the United States are bound to respect them, or is the whole subject of money in the United States, of whatever character it may be, left to the discretionary control and action of Congress? Has the Congress of the United States the right, according to the Constitution of our country, to change the money of the people from time to time to suit the behests of certain favored interests or to suit the purposes of some great political party organization? Have we the right under the Constitution of the United States to handle this subject at our will and pleasure, and to give to the people, or withhold from them, as we may choose, any description of money that we may see proper?

I should consider, Mr. President, that the Government of the United States, in its constitutional foundation, had been affected with a very serious impotency if it had left to the Congress of the United States, or to the States either, the whole power over the subject of money. You may just as well tell me that they have left to the Congress of the United States and to the States the whole power over the subject of bread and meat and clothing, or any other of the essential elements that belong to the people of the United States, for without money they could not produce, satisfactorily, at least, in sufficient quantity, and they could not exchange in the channels of commerce even the ordi-

nary productions necessary to the maintenance of life and to the protection of the body against heat or cold.

So I do not suppose that it was intended by the framers of the Constitution of this country that this matter should be left absolutely to the discretion of Congress. Why, sir, there is not a government in the world that uses money at all which does not exercise in behalf of its people the function of securing to them money as one of the necessary elementary powers of government. And where the governments are free, and especially where they have written constitutions, which are always construed in their most important features as limitations upon power, the control of money is made one of the indispensable and vital features of the government itself.

Now, we are confronted to-day with a series of questions, with a situation, with a condition that makes it necessary for us to look into our own powers over the subject of money. I think a great deal of the error that has crept into the legislation and into the doctrinal construction of what is best for the people, or what their rights may be, and how far they may be tampered with, has resulted from the fact that we have cut loose from the foundations upon which our Government is based in respect to this very important question. We are at sea. We appropriate to ourselves, it seems, the discretionary power to deal with this great and solemn question as if there were no restraint upon our action, and as if there was no anchorage to the authority we must exercise—nothing to hold us steadily to a particular purpose in declaring what is money and in regulating the value thereof.

For instance, we are told in the Congress of the United States and we are informed by the President that the function of Congress for the making or the regulation of money can not be properly exercised and ought not to be exercised in these Houses except in concert with some foreign powers. That we can not exercise it wisely or justly; that we ought not to exercise it or attempt to exercise it until we have obtained some consent from certain foreign powers that they will unite with us in the measure that is proposed for the regulation of the value of money, its creation also, the standards of its value, what shall be the unit of value, and so on. If that proposition is true, then we might as well declare that we are not a government, that we have not the power under the Constitution of the United States of taking care of our people in their most important and serious interests.

Yea, Mr. President, we had just as well declare, so far as this subject is concerned and so far as the influences are concerned that operate in this Chamber as pressure upon us, that we had never accomplished our independence of Great Britain. That seems to be the issue, whether we have actually accomplished our independence of Great Britain. It was supposed by the founders of this Government that we had accomplished that great result, and had cut loose from the sovereign power of the crown of Great Britain and her Parliament in so far that we might regulate all of our concerns in our own way, free from her interference and control. But if it be true that we must still consult her; that we must still act in harmony with her; that we can not legislate for our people until we have got her consent to

a certain measure, then we have not achieved our independence, and perhaps it was a mistake that we ever made the effort.

I believe, sir, in the independence of the United States in taxation, in tariff, and in internal taxation. I believe in its independence in its governmental power and autonomy in every respect. I believe in its independence of British authority and British sentiment. I believe in its independence of the control of Great Britain in respect of what we shall furnish to the people of the United States as money in their daily transactions, and also to the people of the United States in their dealings with Great Britain as a commercial nation. It is our right to deal with Great Britain on terms that suit us.

I have often thought, particularly in reading the disquisitions of my learned friend [Mr. ALLISON], who attended the late Brussels conference, sent there by this Government to survey the ground and ascertain what might be accomplished, that if that convention had happily come to some agreement as to what should be a monetary unit of value as between these two countries, how much a gold sovereign should contain of pure gold and how much of pure silver a silver dollar should contain, and what money should circulate freely as legal tender, if you please, in Great Britain and in the United States (I do not mention the other countries, because I am merely speaking for the sake of illustration) that it should be receivable for customs dues equally in both countries, and that it should perform in respect of the exchanges between the two countries all the functions of money as they are performed in the United States in the exchanges between Alabama and Delaware—I have thought seriously as to the manner in which and the power under which we could carry some such arrangement into effectual operation. I confess that without breaking down the constitutional requirements in respect of the powers of the Congress of the United States I see no possibility of accomplishing any such result practically—none whatever.

Mr. ALLISON. Will it disturb the Senator if I interrupt him?

The PRESIDING OFFICER (Mr. CULLOM in the chair). Does the Senator from Alabama yield to the Senator from Iowa?

Mr. MORGAN. Certainly.

Mr. ALLISON. I will simply say that has never been in the contemplation of anybody I know of.

Mr. MORGAN. Then if that has never been in the contemplation of anybody why do we discuss it? If we can not put it in a law that we shall enact here, and make it obligatory upon our people, where is the occasion for a discussion of a question so purely immaterial and abstract as that? Here is the honorable Senator from Iowa confessing that it was never even contemplated that this matter should get into the shape of an enactment.

Mr. ALLISON. Oh, no; the Senator misunderstood me.

The PRESIDING OFFICER. Does the Senator from Alabama yield?

Mr. MORGAN. Certainly.

Mr. ALLISON. As I understand the question of an international agreement, it is an agreement for a ratio between the two metals, each nation, of course, coining what it chooses, whether

dollars, or sovereigns, or marks, or francs, at that ratio. That is all that I understand was ever contemplated by an international agreement.

Mr. MORGAN. Then, if I understand the honorable Senator, he means that the two governments have only expected that they would establish a ratio.

Mr. ALLISON. With free mintage of both metals in each country at that ratio. That is to say, if the Senator will allow me—

Mr. MORGAN. Certainly; with great pleasure.

Mr. ALLISON. If Great Britain coins shillings in silver, and pounds in gold, the ratio of that silver and that gold shall be the same ratio with the silver and gold in this country, and so of the francs, and so of the marks in Germany.

Mr. MORGAN. That may be 15 or 15½ or 16 to 1, as you might agree upon as the ratio. It goes no further than mere ratio.

Mr. ALLISON. And free mintage on that ratio.

Mr. MORGAN. Free mintage, of course. Free mintage means mintage free to the whole people of this country and Great Britain, does it?

Mr. ALLISON. It means that a man holding silver bullion can go to the mints of France, or of Germany, or of the United States, or of Great Britain and have that bullion coined into whatever the denominations of the country may be where he takes the bullion to the mint.

Mr. MORGAN. Mr. President, that ideal dream of international unity in respect of these matters can be realized only in the fervid imagination of a very enthusiastic statesman. There is no more probability of its occurring than there is that China and the United States will ever be able to enter into any such an agreement as that. China has no coinage of any metal at all under its laws except copper. No silver and no gold are coined under the laws of China, and the probability of a union between Great Britain or the European states and the United States in respect of the matters which the honorable Senator has referred to are just as great as would be the probability of an agreement between China and the United States upon the same subject.

Mr. ALLISON. I do not like to disturb the Senator, but I will state, with his permission, that I believe China is recently coining what they call a dollar; but they have all the time had bars or forms of silver which pass as money, although they have not reached the point of coinage; and that is true of all Asiatic countries. The Straits country uses Mexican dollars wholly.

Mr. MORGAN. I will come to the history of that matter after awhile, and I think I will satisfy the Senator from Iowa that China has in her laws demonetized gold and demonetized silver, and that there is no money in China according to law, except copper. I merely refer to the situation in China at the moment for the purpose of illustrating what I suppose to be the impossibility of a practical arrangement between the two countries. There may be an agreement in sentiment and the like of that, but an obligatory arrangement is impracticable.

Well, that would look perhaps like a presumptuous prophecy on my part, an objection that might or might not hold good, and it may be said that we might as well, at all events, if we could get such an agreement as that, leave it to the future to deter-

mine whether it could be maintained. Of course it would not be maintained a moment longer here or in Great Britain than we thought or they thought that the advantages were in favor of the one country or the other. The hallucination that the nations of the earth treat with each other like brethren in a family may just as well be dismissed. They treat each other like enemies, both in peace and in war, so far as their competitions are concerned, and so far as all of their policies are concerned. There is nothing connected with them that any man has ever been able to point out in history that had the least flavor of generosity in it.

There is nothing but pure, unadulterated selfishness—nothing else. So in dealing with a selfish nation, and all nations are selfish, if after we have entered into this agreement between these two countries, and entered upon it, if you please, if we could do so by parallel legislation, for that is the only way in which it could be done, the very moment that Great Britain saw that she did not have an advantage from it over us that moment she would depart from it.

Now, I wish to go a little deeper into that. We must now look at the situation and at the characteristics of our own Government to determine how far that can be made a practical thing in the United States.

What power of the Constitution shall we resort to in order to accept and carry into effect this pleasing arrangement which the Senator from Iowa has had in his mind? I will suppose that the Brussels commission had agreed upon it and had come home with olive branches of peace which would have been supplemented by crowns of oak by the people of the United States, perhaps, for a few moments, but they would have withered very soon, I am afraid. Now, when they had come home with an agreement of that sort, that there should be free mintage of gold and silver in England and the United States, and that the ratio should be, say 16 to 1, our ratio, how would we proceed to put that into execution here? What power would we apply to it?

Mr. ALLISON. An act of Congress simply.

Mr. MORGAN. An act of Congress, Mr. President, which can be repealed the next day after it is passed without the slightest detriment in the world to any good faith in a matter of this kind. The Senator is willing to admit, I suppose, that the Senate of the United States and the President by a treaty could not do that. The President of the United States and the Senate by a treaty can not regulate the coinage of gold and silver or the value thereof, or the value of foreign coins. It is Congress that has it to do.

Mr. ALLEN. And it has the exclusive power.

Mr. MORGAN. And it has the exclusive power, unless perhaps the States have some power lingering back which has not yet been dug up and properly exhibited to the world. An act of Congress is therefore passed, carrying into effect the supposed possibility, for it is only a supposed possibility, of an agreement reached at a Brussels conference, or somewhere else, between Great Britain and the United States in respect of the ratio and the free mintage of silver and gold in their mints. If Great Britain the next day, or the next month or the next year after she had made an agreement of this kind, and had passed an act

of Parliament, if you please, carrying it into effect, should choose to repeal the act, where is your remedy? Where is your redress, and what is your situation? It is worse than it was before you began to negotiate—not a situation merely of disappointment, but of national humiliation.

Mr. ALLISON. I do not like to disturb the Senator—

Mr. MORGAN. That is all right.

Mr. ALLISON. But we have made treaties covering similar questions, and Congress has passed laws in pursuance of those treaties. Of course, it is within the power of Congress to obliterate every connection and every agreement with a foreign country, but will a great nation like ours do it after having made such an agreement with a nation like Great Britain?

Mr. GRAY. Congress may repeal a treaty.

Mr. MORGAN. I have totally misconceived the treaty-making power if it has the slightest control over a monetary question affecting the people of the United States. So, if we were to make a treaty and thereby get into a common agreement between ourselves and Great Britain, and Congress found it necessary to enact a law to carry that treaty into effect, all of the obligatory force of the situation thus acquired would depend upon the act of Congress and not upon the treaty—an act of Congress which, of course, we could repeal at our pleasure. What I want to know is, how we are going to hold Great Britain up to the obligation. If it were a treaty, and within the treaty power of the United States, we could hold her up to it, and would do it, at the muzzle of our guns; but if it is a mere act of legislation in which each country embarks of its own will and upon its own authority, disconnected from any influence of an obligation between this country and Great Britain, we have no power to enforce it.

Mr. GRAY. May I ask the Senator a question, or rather call his attention to a fact in the history of the world that is pertinent?

Mr. MORGAN. Certainly.

Mr. GRAY. I should like to know what he thinks of the experience in that line of the Latin Union and their international agreement upon this important monetary subject.

Mr. MORGAN. I could answer that question if I understood what was the constitution of any single government in the Latin Union. I do not understand it, but I think I understand the elementary propositions which are involved in the Constitution of the United States, and when I come to look at my own country and try to ascertain what powers we have here to carry an agreement of that sort into effect with Great Britain, I find that they are nil, that we have not any power at all, and therefore that the whole proposition as to us and our people is a mere chimera.

Mr. ALLISON. I do not wish to disturb the Senator, but of course he is now arguing an important phase of this whole question. We have made treaties of every name and nature covering duties on imports, covering reciprocity with Canada for a specific number of years, relating to duties on imports, and we have done that in the face of the fact that the exclusive power rests in Congress to levy taxes and imposts, as the power rests in Congress to coin money and regulate its value. Now, having made an agreement whereby we allow the wines of France, if you please, to come in for a certain number of years at a fixed

rate, and so on with a number of treaties we have had, Congress levying those duties, is it any more likely that Congress would interfere with such an obligation respecting money than that Congress would have disturbed the hundreds of obligations which we have made with other governments as respect equally vital questions involving the power of taxation?

Mr. MORGAN. In respect of the new-fangled treaties of reciprocity that are based upon the assent of the Congress of the United States for their entire validity, and have not a shadow of validity outside of those acts, I will say to the honorable Senator that the very moment we find one of those reciprocal treaties, as they are called, operating injuriously upon our country, Congress will repeal it, and the opposing country, no matter how clamorous it may be for holding onto it, and how much it may appeal to our good faith for adhering to the engagement, will have to go away empty; they will get no consolation from us or from Congress; we will repeal it the moment it is against our interests.

Mr. ALLISON. If the Senator will allow me just once more I will not disturb him again, because I do not like to interrupt him in the midst of his argument. I will illustrate my point by the treaty we made with France in 1831. There are several treaties of the kind, but that one I have on my table; the volume happened to be at my desk. We made a treaty with France whereby we allowed certain wines to come in from France for a specific period and in return France allowed certain importations from our country. That treaty stood, I suppose, during all the period of its duration without the slightest objection. So we have dealt over and over again with other countries as respects every imaginable commercial subject.

Mr. MORGAN. If I am not mistaken in the history—and I do not know that I am entirely correct about it—the treaty the Senator speaks of in respect of the importation of wines from France under certain rates of duty was a part of the engagement by which we acquired the Louisiana territory.

Mr. ALLISON. It was the treaty of 1831.

Mr. MORGAN. I know, but it followed from the Louisiana purchase. The execution of that engagement contained some stipulations upon that subject, if I am not mistaken in my memory, and I am not fresh in my mind on the subject.

Now, the Senator seems to be insisting that it is competent for the Senate of the United States and the President by a monetary treaty with Great Britain to regulate the coins of the United States, the coinage of money, the creation of money, and the value thereof. If it is, it is equally competent for the Senate and President to regulate the amount of it, to regulate its purchasing power, and everything of that sort. I do not think that a proposition could be stated that is more obviously, and I might add absurdly, incorrect than that. Yet, that proposition has to be reached, it has to be embraced, it has to be adopted, it has to be made the foundation of your action before you can get an obligatory agreement between the United States and Great Britain upon a subject of this kind. It is impossible, Mr. President. It is a tub to the whale. Speaking with all respect of those who have advocated it, it is a mask of deception. It is holding the word of promise to the ear and breaking it to the hope. It is im-

possible of execution and almost impossible of contemplation in a legal sense.

This matter has been held up before the people of the United States from time to time and from year to year through a long series of years, now twenty years or more, as the hope upon which we should rely, as the proposition to which we could anchor those measures of relief which are found to be necessary, in the saddest and most cruel experiences that have ever been visited upon people in the world, from the desperation of their condition—this and no more—and it is placed here as a condition precedent to the action of the Congress of the United States for the relief of the people.

We are told that silver money can not live, that it can not have a legal existence, that it can not have legal value, legal-tender quality or any other value except in the subordinate and subsidiary conditions where it is floated into the pockets of the poor, who are obliged to have it as token money or else to starve. We are told that this people can not have any of these things until we have had some agreement with foreign powers that they may have it; and yet the impossibility of reaching such an agreement and putting it into practical operation so dazes the wisest Senators on this floor that when I am discussing it and they are putting questions to me, they seem to wander as men lost in the dark and try to find an answer to the substantial position I take.

No, sir; it will not do for us in this hour of great emergency, in this critical period of the life of the American people, to offer them vain hopes like these as the solution of that question. We had better be practical. We had better do something within the purview of our constitutional power. We had better declare our independence again of Great Britain, and maintain it, than to undertake by treaty agreement, finesse, cajolery, flattery, and the like, to persuade her to allow us to legislate for our people in the way that a government ought to legislate for its people, taking care of the poor and the rich alike.

Mr. ALLEN. Will the Senator from Alabama permit me to make a suggestion in this connection?

Mr. MORGAN. Certainly.

Mr. ALLEN. I desire to call the Senator's attention to two legal propositions. The first is that where a power is conferred by the Constitution upon a given branch of the Government that power is exclusive and can be exercised by no other department of the Government than the one upon which it is conferred. The second proposition is that where the power is conferred for a general benefit, whether it is in terms of permission or mandatory, it is construed to be mandatory, and must be exercised.

Mr. MORGAN. The Senator from Nebraska has got his definition of these two important features from the whole body of American law. There has not been, I think, a judicial decision in the United States, certainly not of any respectable tribunal, which has ever denied either of the propositions which the honorable Senator has stated. It is fixed law in the United States. More than that, it is the law of the Democratic party. If a person had set out to state two of the leading and most fundamental organic laws of the Democratic party he would have adverted

to precisely the principle which the honorable Senator has just stated.

Mr. GEORGE. Will the Senator from Alabama allow me to ask a question from the Senator from Iowa right on that point?

Mr. MORGAN. Certainly.

Mr. GEORGE. I desire to ask the Senator from Iowa whether the treaty of 1831, to which he referred, by its own vigor, without any subsequent legislation by Congress, fixed the duties as therein specified?

Mr. ALLISON. It did not fix the duties, but it limited them.

Mr. GEORGE. Or limited them?

Mr. ALLISON. Here is the language of the treaty, if the Senator from Alabama will yield long enough.

Mr. MORGAN. I will yield.

Mr. ALLISON. The treaty reads:

The wines of France, from and after the exchange of the ratifications of the present convention, shall be admitted to consumption in the States of the Union at duties which shall not exceed the following rates, by the gallon (such as it is used at present for wines in the United States), to wit: 6 cents for red wines in casks, 10 cents for white wines in casks, and 22 cents for wines of all sorts in bottles. The proportion existing between the duties on French wines thus reduced and the general rates of the tariff which went into operation the 1st of January, 1829, shall be maintained, in case the Government of the United States should think proper to diminish those general rates in a new tariff.

Mr. MORGAN. What was the reciprocal advantage to us in that treaty?

Mr. ALLISON. "In consideration of this stipulation"—

Mr. MORGAN. What stipulation?

Mr. ALLISON. The one I have just read.

In consideration of this stipulation, which shall be binding on the United States for ten years, the French Government abandons the reclamations which it had formed in relation to the eighth article of the treaty of cession of Louisiana.

Mr. MORGAN. I knew that was the case.

Mr. ALLISON. The treaty proceeds:

It engages, moreover, to establish on the long staple cottons of the United States, which, after the exchange of the ratifications of the present convention, shall be brought directly thence to France by the vessels of the United States, or by French vessels, the same duties as on short staple cottons.

Now will the Senator allow me just a moment?

Mr. MORGAN. Certainly.

Mr. ALLISON. The power to levy duties upon imports is in the Congress of the United States. It comes within the definition stated by the Senator from Nebraska [Mr. ALLEN]. Yet here is a treaty, a reciprocal obligation, that was to last for ten years, which changes the power of Congress to levy such duties as it may choose upon imports.

Mr. MORGAN. That treaty was not worth the paper it was written on if it changed the powers of Congress to levy those duties, and it would require the power of Congress to carry that treaty into effect.

Mr. ALLISON. Very likely; but suppose the power was so exercised—

Mr. MORGAN. Not very likely, but necessarily.

Mr. PUGH. Certainly.

Mr. MORGAN. Certainly.

Mr. GRAY. Will the Senator allow me? I agree entirely

with the proposition of the Senator from Alabama that that treaty was not worth the paper it was written on if Congress chose—

Mr. ALLISON. Undoubtedly.

Mr. GRAY. If Congress chose in its plenary power to depart from the obligation thereby incurred on the nation, and that at any time the Congress of the United States by an exercise of legislative power may depart from the duties and obligations which are imposed by treaty under the full responsibility that this country is under as one of the great family of nations.

Mr. ALDRICH. I suggest to the Senator from Delaware that it is undoubtedly within the power of Congress for the time to violate any of the international obligations which have been entered into in this behalf.

Mr. GRAY. That is what I say.

Mr. ALDRICH. Any or all of them.

Mr. GEORGE. Will the Senator from Alabama allow me to ask a further question? In what the Senator from Rhode Island has stated he has not answered fully—

The PRESIDING OFFICER. The Senator from Alabama will please indicate whether he desires to yield further.

Mr. MORGAN. I shall get very tired if I have to stand all day.

Mr. GEORGE. Very well; I will wait.

The PRESIDING OFFICER. The Senator from Alabama has the floor and Senators wishing to interrupt him will please address the Chair, so that the Chair may understand whether he yields.

Mr. MORGAN. The power of Congress to violate a treaty, as was stated by the Senator from Rhode Island, can scarcely be said morally to exist.

Mr. ALDRICH. No, I did not intend that.

Mr. MORGAN. There is a brute force that we may exercise, of course, against any nation, as perhaps we have done in recent years. We are supposed to exercise some very arbitrary power for the purpose of preserving our people against the infliction of certain populations upon the United States which were considered dangerous to the general welfare of the country. It is true that the Senate and the President have not any right to prescribe tariff duties by a treaty. They have no right to do it. In order to make that action available for any legal purpose it must be supplemented by an act of Congress, and Congress can depart from that act at any time, and in departing from it it only breaks up the reciprocity and gives the other nation no just cause of offense.

In the case which the honorable Senator from Iowa cited of the treaty with France I thought that I could not be mistaken, and that the reciprocity clause in respect of wines was in payment of certain damages which France claimed against us growing out of the old treaty of alliance, offensive and defensive. Our intercourse with France had been disagreeable; and when we had made the Louisiana purchase from her and were winding up our affairs with her in a better temper and better spirit we concluded that it was our duty, in lessening the duties upon wines, to pay her for certain claims that she theretofore had.

She had a moral obligation upon us to that effect, and that is all of it.

Now, Mr. President, this causes me to recur again (for I see I can not get the mind of the Senator from Iowa away from it) to the proposition that after all there is some value in a treaty between the United States and Great Britain, or there might be if one could be obtained in respect of the regulation of monetary affairs. I advert again to the proposition. How very remote it is, first of all, that we should be able to get an agreement of that sort with Great Britain, and yet how very much more remote it would be after the President and the Senate by a two-thirds vote had ratified a treaty carrying it into effect that we should ever get the other House to consent to it and to enact it into a law. That is a very remote probability and in the far distant future. These idle hopes would gratify, Mr. President, to the full all of the desires of the antisliver men in respect of its death and burial and cutting it off from the privileges of resurrection.

Nothing would need to be done to satisfy those gentlemen that they had effectually and forever destroyed silver money but to say to them, "We have so arranged it as that there can not be any coinage of silver in the United States, or any legal tender of silver in the United States until Great Britain has consented to it." The Senate, by a two-thirds vote, and the President have ratified a treaty and Congress has also supplemented it with an act to carry that treaty into effect. All the happiness of the hour, so remote, when the American people should be restored to their constitutional rights of having their gold and silver coined into money, which the Senator from Iowa proposes to gain by these arrangements is difficult to realize, conceive of, to execute, to perfect, to hold on to, even after you have your laws on the statute book. This is "hope deferred, which maketh the heart sick."

Mr. ALLISON. Will the Senator yield just one moment?

Mr. MORGAN. Certainly.

Mr. ALLISON. I wish to call the attention of the Senator to the fact that Congress four times by distinct and specific legislation has provided in advance of the signature of the President, not for an arrangement with Great Britain, because nobody thinks of that, but an arrangement with the commercial nations of the world for a common ratio between the two metals. Four times that has been done in advance, and therefore it is easy to suppose that Congress, after the ratio has been fixed, will agree to that ratio.

Mr. MORGAN. What four times does the Senator refer to, if he pleases?

Mr. ALLISON. First in 1878, next in 1881, then in 1885, and last in 1892. Four times, according to my recollection; but whatever is the number, we have over and over again by legislation decided in advance that it was a desirable thing to arrange for a ratio between the two metals and for free mintage.

Mr. STEWART. Will the Senator allow me?

Mr. MORGAN. No; I will not yield just now, if the Senator pleases.

Mr. ALLISON. I shall not interrupt the Senator again.

Mr. MORGAN. Four times the Congress of the United States has conceived that it would be a desirable thing to enter into

such an arrangement, and four times Congress has been disappointed. Does the Senator want any more disappointments? The people are not prepared to wait further.

Mr. ALLISON. I will not interrupt the Senator except to say that Congress has not yet been disappointed as respects the fourth time.

Mr. MORGAN. I do not know; the honorable Senator is back here, and the Brussels convention has adjourned without day. It was admitted on all hands that nothing could be agreed upon, and even the membership of the convention from Great Britain and elsewhere went in more as a voluntary movement on their part than through governmental action. There were gentlemen there who said, "We are here to wait upon you, because it is a polite thing to do. Our governments do not authorize us. Do not misunderstand us; our governments are not going to be bound in any particular by what we do here; we will go into a debating society with you about this business, but it will wind up by the adoption of a resolution that will have no more effect than the resolution of an ordinary academic debate."

Mr. STEWART. Will the Senator allow me to ask him after what has occurred—

Mr. MORGAN. I think I will get it all out if the Senator will permit me.

Mr. STEWART. As to the report of 1881?

Mr. MORGAN. I think I will get it out.

The PRESIDING OFFICER. The Senator from Alabama declines to yield.

Mr. MORGAN. Here four times we have expressed the desire; yes, we have expressed it until Great Britain and Europe have got a contempt for us, and they do not hesitate to say so. They read lectures out of their great dailies to the President of the United States. I have one before me now telling him that this last break of his in his letter to Governor Northen, of Georgia, compromised him. It rather shows a weakening in the part of the President; it shows us that he has something in his mind which rather disappoints British expectations.

Great Britain scouts you when you go upon your commissions and come back home empty; and then her great leading papers and the members in the House of Commons hurl epithets at us and mockery because of our weakness. All the time we are truckling to European power instead of standing upon the great basis of the strength of the American people, our resources and our incomparable constitution. And yet after four of these disappointments, where the American people looking back into their history see as in a mirror the blush of shame come to their cheeks because of their impotency, we are invited again solemnly by these gentlemen who want to procrastinate the substantial relief of the people to go back again and try another.

Now, sir, we need independence. The final battle has not been fought yet. We must be independent of Great Britain before we are the right sort of a people. We must use our resources to compel respect from her and other European powers, for they are all led and controlled by her. When I speak of her, I speak of the locomotive that pulls the entire train in Europe. We must compel her to respect our powers and our resources. Never was a wiser thing uttered on the floor of the Senate than when

the honorable Senator from Pennsylvania [Mr. CAMERON], who sits in front of me at this moment, rose in the Senate the other day and insisted that it was a part of the duty of the United States in times of disturbance with European powers in the vehicles, the yardsticks, the measurements of our commercial intercourse with them, that we should say to them, "We have one asset here that is better than all the diamonds in Golconda; we have one source of national wealth that is prouder and stronger than if every hill in Colorado was loaded with gold; and that is the national credit power." That is an asset of the people of the United States, a power over the control of the money of this world that we can coin, if you please to use the expression, that we can crystallize in securities and offer them in Europe and take the very foundations from under the throne of the Queen of Great Britain and all the other continental powers, as to their monetary power, and import their gold here and hold it at our will and pleasure.

Are we who in so brief a time paid the enormous debt of \$3,000,000,000 twice over, counting in the interest, and who have done it in the presence of the fact of unexampled prosperity and growth in numbers, in wealth, and in power, to be told that we must be going around through Europe hunting bargains and agreements with them to permit us to live and conduct the business of this Government where it can not be that exceeding \$100,000,000 per annum is necessary for the purpose of equalizing the balance of trade, even admitting that it is always against us, which is not the fact?

No, no; do not let us forget ourselves, Mr. President. Do not let us forget our country. If there are men in high places who are not broad and big enough to comprehend it, let us lay it before the people. They will never forget it; they will comprehend it. It was built by them, and their power sustains it. It is their labor that has made our credit so good. They have dug this grand asset of our national credit out of the soil of this country and piled it up until it stands supreme in the estimation of all the nations of the earth, and is the greatest monetary factor that ever existed in the hands of any people in the world.

I do not get alarmed about the situation of the American people when I allow my recollection to run back over even the brief space of time in which I have had the opportunity and honor of being associated in any way with public affairs. When we supplement that great and recognized power with the fact that we are the largest silver-producing country in the world, that we produce one hundred millions of the precious metals annually, or did produce them until the people who were engaged in producing them were choked to their knees and could not progress, and out of that one hundred millions of specie thirty-three millions are gold and sixty-six and one-third millions are silver, or thereabouts—when we add that to the backing of this great financial power that we have got in virtue of our national credit, how can we be alarmed that the United States is going to be robbed and that our Treasury is going to be gutted by the migration of \$100,000,000 a year.

How can I be alarmed at that when I superadd to that the fact that every State in the American Union has the privilege of banking and conducting her business in her own way and for

the benefit of her own people, and can furnish to her local community all of the money which is necessary for the transaction of her domestic affairs? The power of the United States in a financial way almost excels human contemplation, and furnishes a ground of confidence which no man but a coward can fail to occupy.

Then, when I look out over our relationships to this Western hemisphere, and I have a bare glimpse—for it is only that that any man can now realize—of what is in future prospect for us and to be placed early in our embrace in respect of the commerce of the nations of this western hemisphere, and how easy it is for us to control that by having our financial system to correspond in its essential features with theirs—when I look at that, and find that statesmen are concerning themselves about the more steady and ready and permanent supply of gold to the bullion dealers and the gamblers in stocks—not the people engaged in industries, but the gamblers in stocks—and they set that question against the mastery of the western hemisphere, I wonder that such men can go to sleep at night without being affrighted with dreams. Their timidity is of the sort that makes of bad dreams a fearful certainty.

Now, Mr. President, I will advert to a fact in illustration of the point which I am just now making (and which I will in the latter part of my remarks, or at some other time, develop more fully), which is this: That in consequence of the harmony which exists between India and China and Japan in their monetary systems, in the interchange of silver coin amongst themselves—not gold—India, which has been so long sobbing and her bleeding heart palpitating under the heel of Great Britain, has been inspired with some of that sentiment of manhood which in days not so very ancient made her one of the brightest and most resplendent powers of the world; has been devoting herself to practical subjects, such as spinning and weaving the cotton made upon her own soil, and she is engaged actively in commerce across her borders, and the nations with whom she has traded have been China, Japan, and the Asiatic islands.

India has increased in her prosperity as rapidly as any country in this world. Notwithstanding all of these drawbacks and these difficulties, she has taken away from Manchester and from Great Britain a trade with China which was one of the most lucrative that Great Britain has ever possessed. She has appropriated it to herself, and she has done it through the simple fact that the money of China was current in India and the money of India was current in China at a given weight. It was all silver. Their money corresponds in character, and they have no exchange to pay in dealing with each other.

Just apply that experience in the use of silver money to our dealings with these wonderful countries, and we shall be astonished. Think of the 300,000,000 people in India and the five or six hundred million people in China, penned up upon their soil until there are perhaps as much in China as 300 people or more to the square mile; think of China being a country, not wonderful in its agricultural power, and India an old and exhausted country, thus crowded and cramped with population—think of these two great nations in their ignorance and in their barbarity and in their semicivilization and in their paganism, so conducting

their affairs as that every man has a living, all are employed, the commerce of the two countries increasing with each other, and India growing greatly rich in her enterprise in dealing with China, and ask yourselves the reason why this is so, and why China should neglect the markets of Great Britain and go to those of Bombay and Calcutta for her traffic and commercial intercourse? Ask yourselves the reason and see if you can answer it in any other way in the world except that it is the result of the common use of silver.

What statesman is here who will assign any other reason? I lay the challenge at your feet broadly. I have stated the facts, and I will prove them still more completely presently; and I should like to know whether a country like ours, which produces sixty millions a year of silver—and the production could be easily carried perhaps to a hundred millions—can not find its profit beyond that of any country in this world by simply having harmony of financial relations between Mexico, the Central American States, and the South American States and the United States, which are also silver-producing and silver-using countries.

What an opportunity is here for statesmen? What more splendid opportunity was ever suggested to the mind, yes, and to the heart of American statesmen than that which is presented to us of having financial and commercial union with all the States of this great western hemisphere? Give me that, and you can take all the trade with Great Britain, and Germany, and Austria, and Russia, and go off with it; I would not thank you for it. Give us that, and New York will be converted into the commercial clearing house at least of the western hemisphere, if not of the world, and she will supplant London in her magisterial grandeur as the queen of the commerce of this earth. Independence once gained, final independence of Great Britain once established, these glorious results will pour in upon us with unexpected rapidity and volume.

I can not ignore that opportunity. If I had not any better reason in the world for the remonetization of silver and its full and free coinage, that would be enough for me. To control the commerce of the western hemisphere would be quite enough for me. Ships, then, instead of crossing the Atlantic and going to Liverpool and back to the United States with their cargoes from South America would sail directly up and down the coast, and the great railroad we have been contributing to and have already got surveyed between this country and South America, extending down to the Rio de la Plata, would be accomplished, and we should have as free intercourse with South America as we now have with Mexico.

Mr. President, that is a very general view of this question, and I want to come nearer home to it, because it is a home question to me, as it is to all of us, as it is to the people of our country—to say the least of it, it is a home question.

The men who are engaged in thwarting those who insist upon bimetallic coinage are men who wish to monopolize the money market of the United States by the use of paper issues, either in the form of bank notes, Treasury notes, or bills of exchange. They wish to monopolize all the power of the monetary system of this great people, and I can not blame them any more than I could blame Jay Gould, who now sleeps in his tomb—and I shall

say nothing harsh about him—for having grasped within his reach and into his possession the fortunes of hundreds and thousands of men sent desolate to their homes to meet weeping wives and children who needed bread.

The power to control money in the United States or anywhere else, when it exists in the form of a monopoly, is a more dangerous power than that of leading armies subject to your beck and your call anywhere at your bidding. There is no power that approaches it in its magnitude, in the scope of its envelopment of all interests and rights in the world, and none which equals it in its cold, dangerous, and merciless grasp.

The men who oppose bimetallic money in the United States and who are not willing that we shall enact it here in Congress, but demand that we shall go abroad to get the consent of other powers that we shall enact it, knowing the improbability, indeed the impossibility, of accomplishing any such end as that, set themselves to work with the greatest possible diligence and with most marvelous success to grasp within their hold the control of all the money in the United States. They have got it.

What is the money of the United States? There is not a dollar of it impressed upon a piece of paper, unless it be gold certificates and silver certificates and coin certificates under the act of 1890, that the people of the United States are not required to pay taxes daily for its support. They are required to pay taxes to be carried in and added to the value of the money which, under our banking system in the United States, is placed within the monopolistic control of what we call the bankers and financial men of this country. That is the money of the United States; that will be the character of money that will be issued under the bill which the honorable Senator from Indiana reported from the Committee on Finance and had on its passage in this body, when he found it necessary to abandon it for some unexplained reason—the bill to increase 10 per cent the issues of the national banks, an addition of that much interest to be paid by the people, an addition of that much power to the national banks, almost unrequired and uncalled for, a voluntary sacrifice to Moloch.

That bill was rushed into this Senate from the Committee on Finance, took its place here, and was being debated, and the honorable Senator from Colorado [Mr. TELLER] and other Senators made their speeches upon it, when suddenly it was supplanted and displaced, and this House bill No. 1, with the amendment of the Senate committee to it, was brought to the fore, and since that time the bill to which I have referred has never fluttered from the table.

That bill was a pioneer of the legislation which is to come, but they put it in just a few hours too soon. They put it in here for the purpose of expressing what would be the purpose and object of the gentlemen who opposed the silver men upon this floor after they have got silver in its coffin; they put it here to show the national banks that they had on this floor superserviceable friends who would bring rewards and money and riches and lay them at their feet as a sacrifice if they would but hold up for a little while and would not destroy the people at once. It was a sop to Cerberus, a something to satisfy the maw of the three thousand or four thousand headed monster who sits there with

ferocity, at the doors of the national banks, to guard people who are going into the gates of hell, so that they never can get back. That is the sop to Cerberus. That is the bill that lingers for consideration until the death of silver money has been accomplished.

The men who are opposing the remonetization of silver and its free coinage have but one great purpose in view, and that is that they will monopolize and absorb the power of supplying money to the people of the United States at their will and pleasure, and they have done it with absolute defiance of law. They care no more for your law than they do for the blacking on your boots, and not half as much, if your boots were exercised with the vigor that they ought to be in kicking them out of existence.

When they get in a close place for money, because the people have chosen to go to them to demand and get a portion of what is due them and stuff it in their pockets for safe-keeping; when they get into a place where they find it necessary for them to maintain their credit across the water in order to get power enough to choke down the three thousand country banks which exist in this country, I believe it is, or something like that—when they wish to evade and avoid the laws of the United States, they issue clearing-house certificates, shinplasters, not to circulate amongst themselves merely, but to circulate amongst the people. I have one of them in my possession now of the denomination of 50 cents, issued by national banks, there being no law to sustain such an issue.

Upon the pretense that they are trying to help the people, the national banks keep coin and national-bank notes and legal-tenders and silver and gold certificates locked in their vaults in great abundance, and say to the people, "Take this trash of ours and circulate it as money. You can buy bread with it well enough. We will show you that you are under great obligations to us for preserving your lives while we choose to keep the keys turned upon our vaults. We will feed you out of the spoon of charity, while we lock your money in our vaults and refuse to pay it out to you after you deposit it." And when a Senator rises here and wants to make an inquiry as to how far this thing has gone, what damage has been done, Senators rise on this floor and apologize for the banks, and say, "After all, they were compelled to do it, and the Secretary of the Treasury, in the great emergency of the country, was excusable for not having enforced the law against them; that if he had enforced the law he would have broken the banks." Suppose he had; he would not have broken the people by breaking the banks. The Government of the United States is responsible for the redemption of every one of these notes. You may break every national bank in the United States in half an hour and the money is just as good as it was before the bank was broken.

I do not refer to the great tyranny in New York. They operated upon a wider basis than that; they went up in the millions and the thousands, and the like of that, but the petty banks, five or six of them in a town, followed this evil example, violating the law under duress, and issued these little shinplasters into the hands of the people. That is a mere arrogant way of showing that the money power, the banking power in the United

States, has got to be strong enough to put a muzzle on Secretaries of the Treasury and to have Senators defend them.

There never was such a pretentious cloak for a cruel and cold arrogance used by any set of mere money sharks in all the history of mankind. Am I stating that too strongly? I am not. But that is the power they have been aiming for; that is the power they possess, and that is the way they use it, and it is the way they intend to use it hereafter when they have no competitor in the market for the making and circulation of money.

Mr. President, they have competitors, and constitutional competitors, and I am one of those competitors—a mere individual, I am one of their competitors—because I am an American citizen, and under the Constitution of the United States I am a competitor of the national banks in the matter of making money, and I proceed to show how that is done. In showing that, I shall show, I think, another very substantial and very emphatic reason why it is that there is such headlong haste here to rush us into legislation on a particular measure, to compel us to adopt a certain bill. Stand and deliver is the order. Do as I command you and be in a hurry about it; do not stand upon the order of your going, but go.

Mr. MCPHERSON. Before the Senator departs from the particular line he is following, will he permit me to ask a question for information?

Mr. MORGAN. Yes.

Mr. MCPHERSON. I should like to know if the Senator charges that any of the national banks in this country have been issuing certificates of 50 cents each as a part of their circulation? I was not aware that the Government issued a note of such small value as 50 cents. I think the Senator has left the question in the minds of the Senate very much as though he had made a charge against the national banks, whereas what has been done, as he charges, may be perfectly right and proper under the laws existing in the States. There may possibly exist a right in a State bank to issue notes of any denomination on the payment of the Government tax on circulation. I would draw a very wide distinction between a note of that kind issued by a national bank and a State bank, while the Senator makes no distinction.

Mr. MORGAN. I am speaking about clearing-house certificates.

Mr. MCPHERSON. Again, I think the Senator certainly must be mistaken as to his statement regarding a clearing-house certificate having been issued by any clearing house in this country for 50 cents.

Mr. MORGAN. When I can get to my room I will show the Senator whether I am mistaken or not.

Mr. MCPHERSON. While I am on my feet, I should like to ask the Senator another question, because I wish to understand exactly the foundation upon which he is basing his great international monetary system.

Mr. MORGAN. Excuse me, I have not any great international monetary system at all.

Mr. MCPHERSON. The Senator spoke of the nations of the western hemisphere having a common standard.

Mr. MORGAN. I spoke of possibilities.

Mr. MCPHERSON. Would it interfere with the Senator if I should proceed to ask him another question?

Mr. MORGAN. I do not know until I hear the question.

Mr. MCPHERSON. Very well. I should like to have the Senator inform me, if such a system can be organized and conducted upon a silver currency, a silver basis, similar to that which is to-day employed by India and China and in a large measure by the United States, how it is that when a Chinaman purchases a bill of goods from India he is compelled to pay for his goods by a draft on London? Why is it that when an East Indian buys goods of a Chinaman he is obliged to pay for them by a draft on London? Why is it that a merchant in New York, dealing with China and dealing also with India, purchasing from both countries, can not even clear his accounts between India and China, in which he is a party, by the payment of silver, but must pay both India and China by exchange on London?

Mr. MORGAN. I will—

Mr. MCPHERSON. It is simply because neither India nor China will receive silver in payment for commodities; yet both are silver countries.

Mr. MORGAN. I will say in reply to the speech of the Senator—for it has been magnified from a proposition to ask me a question into a speech—

Mr. MCPHERSON. I merely wanted to explain the question.

Mr. MORGAN. I ask the Senator to produce before the Senate the evidence of what he has stated.

Mr. MCPHERSON. It is universally admitted.

Mr. MORGAN. No; it is not.

Mr. MCPHERSON. For the past two years India has refused to accept the silver of China, and China has refused to accept the silver of India. The Senator knows that.

Mr. MORGAN. I do not know it, and I deny it.

Mr. MCPHERSON. I can produce proof of my statement.

Mr. MORGAN. The Senator is bound to do it, and I will bring up my certificate, too.

I wish I could talk about the national banks without exciting my friend from New Jersey, but it seems I can not do it. I did not mean to impute to the honorable Senator that he was here for the purpose of covering up the sins and iniquities of the national banks. I leave it for the hereafter to determine whether that is a fact or not.

I said, Mr. President, that I in my own person as an American citizen was a competitor of the national banks, with the constitutional right of furnishing money to the people. I might lay that claim upon the basis of an ancient English right which existed by statute in Great Britain, and was therefore in force in all of her colonies at the time of the independence of the United States, for that was the privilege of a Briton up to 1816. Up to that period of time, or some time a little antecedent to that, a British subject had the right to carry his gold and his silver to the mints and have it freely coined under the laws of Great Britain. If I had no broader basis than that to go upon I could claim it in virtue of the right of my ancestry as British subjects in the colonies of the United States, for they had the right of the free coinage of gold and silver at the time the Con-

stitution was adopted, and the Constitution did not repeal that statute, but confirmed it.

The right, however, is a very much broader one than that. It is a right which, in my opinion, so inheres in the right of citizenship of a person in the United States as that Congress has no power to take it away; certainly Congress can not take it away by giving to you, who own a gold mine, the exclusive right of free coinage of your metal, and deprive me, who may own a silver mine, of the same right in regard to my silver, a precious metal. That sort of discrimination is not elementary in the Constitution of the United States, and whenever it is resorted to in legislation or by judicial construction or otherwise, it becomes a hideous blot and stain upon American honor. It can not be otherwise characterized—that sort of discrimination in respect of metals which are precious metals, which are money metals the world over, and have been money metals since the earliest dawn of civilization, metals which as money metals have furnished a pair of wings, not one, to the flight of the beautiful light of civilization amongst all the unenlightened nations of the world.

Mr. MCPHERSON. May I interrupt the Senator?

Mr. MORGAN. Yes.

Mr. MCPHERSON. I should like to ask the Senator a question. What right has this Government, claiming to be a just Government, to take the gold of the Senator from Alabama at the mint and make it into coin, paying it back to him in the coin value of the metal without any increase or diminution except the cost of mintage, and in turn take from me my silver coin, and by the operation of the coinage laws of the United States hand it back to me increased by 70 per cent by the act of mintage?

Mr. MORGAN. There is no such right as that, Mr. President, and nobody ever pretended it, and nobody ever practiced it. The Senator is hallucinated with a conception of his own brilliant mind. I frequently find gentlemen, as I pass through the world, who are so much in love with their own brilliant conceptions, that it is impossible for them to see the sun when it is at the zenith. There is no substantial fact in any part of the question which the Senator has done me the honor to put to me; there is no appearance of fact in it.

I shall proceed further, Mr. President, to vindicate my right to the coinage of my silver, dug out of my mine with my own pick and brought to the Mint, and that it is quite equal under the Constitution to the Senator's right to have his gold coined. They are both rights which can not be taken away. If you take away one, you can take away both; if you take away both, you can monopolize all of the silver production and gold production in the United States, and you can take the product of a tract of land for which a man has paid the Government of the United States and for which he holds the deed or patent—gold or silver, whichever it is, or both—and convert it into the Treasury of the United States by an act of rapine. There is no such power.

The United States is under the restriction that it can not take the private property of any man except for public uses, and that upon compensation to be ascertained before it can be taken. If the Government of the United States can deny to me the privi-

lege of having my gold coined, or my silver coined, what else is it, except to take away the value of it so far as its monetary quality is concerned and rob me of my property, my right, which I dug out of the very ground for which I paid the United States; and not only so, but I have done it under the encouragement of mining laws, which stand by and give the strongest invitation, the greatest opportunities, for every man who entered upon the discovery and the working of mines under the laws of the country.

What are your mining laws? What do they mean? They have populated the country west of the Mississippi River after you leave the arable lands. What are they? A man gets his grubstake furnished perhaps by some other person—a little meat, a little bread, and a blanket in which to wrap himself, and he takes his pick on his shoulder, and, with the experience of long years of observation, climbs through the mountain gorges and up their steep acclivities. He goes wandering about in places where human foot hath never trod, and where the wild and ferocious beasts of the forest are confronted with him, and there he discovers a lead or a lode appearing upon the surface in some faint demonstration that he understands, like the late Senator George Hearst used to understand, as I used to say to him, from his instinctive knowledge of geology and mineralogy. He sticks his pick in the ground, and it is revealed to him that there is a place upon that mountain side where there is gold or where there is silver or where the two, as is often the case, are found embedded together.

What does he do? He takes out his tape string and measures off a yard, and with a piece of a stick which he cuts from a tree, he drives down a corner stake, measures so much in this direction, so much in that, so much in the other, and around to the beginning; and then sticks up a notice on a tree: "This is my place: this is my right." The law of the United States says he may have it. It may be the Comstock lode; it may yield untold millions of money; but the law of the country says to that man, "That is your property, and you shall not be disturbed; it is your right to bring men there by invitation." What for? To enrich this great country, to furnish its people with a medium of exchange, to replenish the Treasury of the United States, but not that men may raid it. You are engaged in a noble mission with which the Government of the United States has a very intimate sympathy and will protect you in your right. There it is. It is your right; it is your property; you do not have to pay one stiver for it, not one cent. After you have worked it, if you choose to become the absolute proprietor of it, here is a law by which you can purchase and get a patent for it, and shut out all contending claimants against you forever. That is the mining law of the United States.

These people in Colorado and elsewhere in the far West have gone there under the invitation of the mining laws of the United States, and have dug out of the bosom of the earth treasures which astonish mankind; and it is this very plenitude of treasure that they have so dug out, of precious metal, it is this very plethora resulting from their unusual labors and their terrible exposure and sacrifices which now makes them the butt of ridicule and aspersion also at the hands of men who never in the

world had a pick in their hands, and who would be scared into fits if they once entered, night or day, into one of those remote and awful cañons or upon one of those lofty mountains.

The manhood of the American, his enterprise, his love of romantic adventure, his desire for gain, stimulated and encouraged by the laws of the United States, has filled up the Western country with a population, the like of which for intelligence, for manhood, for loyalty to truth, honor, and the flag of their country is not excelled by any population, even the pioneer population, that ever existed in the United States. These men have to be destroyed; they must be sacrificed to Moloch; they are not to be permitted to live and thrive; they are to be called gold kings and silver kings—not gold kings, because that sort of kings and queens and rulers they are worshipping, they are their liegemen—but they are to be called silver kings; they are to be upbraided, scandalized, maltreated on the floor of this Senate, and by a licentious and hireling press, which scarcely seems to have strong language enough and opprobrious adjectives and adverbs enough with which to signify their contempt for such men.

These penny-a-liners, who are glad to get a crust of bread and a herring to live upon, spew out of their mouths slanders and declamation, paid for by the line, against these noble and splendid-spirited men who, under the laws of the United States, have done so much for their country; but they must be destroyed, and that suddenly and without remedy. They would even deny to them, as I contend, the hope of resurrection, or, if they are to have a resurrection, it is to be in the second resurrection, and not in the first; they are not to go forward glorified, but merely raised for the purpose of being sent to a deeper hell.

Why is this haste? Do you believe that these astute men, so full of information, so thoroughly possessed of knowledge upon every topic connected in any way with their affairs, are not wide awake and aware of every shade and shadow of the situation in the Senate and in the other House and in the Executive Mansion and amongst the people? They know it all; they are not deceived about it; they know that there is need of haste. They fear a decision of the Supreme Court of the United States upon a case pending before that body, of which I have the record before me. This is the record of case No. 15049, Term No. 752, and it is not likely to be reached perhaps before the October term coming a year. It is entitled—

The United States, on the relation of George G. Merrick, George F. Batchelder, Harley B. Morse, and Robert J. Coleman, plaintiffs in error, *vs.* Charles Foster, Secretary of the Treasury. In error to the supreme court of the District of Columbia.

That case is pending in the Supreme Court of the United States. What is it? The petitioners for this mandamus state that they carried to the Mint, first, what I call a brick of pure silver, weighing a proper amount, which they there tendered and demanded its coinage for their benefit into standard silver dollars of 412½ grains each. They allege that the silver brick belonged to them, that they were entitled to it, and that under the laws and Constitution of the United States they had the right to have that brick coined into standard dollars of 412½ grains each. The Superintendent of the Mint refused them, and the Secretary of

the Treasury, affirming the decision of the Superintendent of the Mint, refused them. A petition for a mandamus was brought in the supreme court of the District of Columbia. There the petition was refused, and the case is now pending in the Supreme Court of the United States.

The grounds upon which they claim they had the right to have that brick coined into dollars were, first, that the act of 1873, dropping the coinage of silver dollars, was unconstitutional; in the second place, that the Bland act revived the act of 1837, which required the coinage of silver dollars of 412½ grains each when the metal was presented at the Mint; that the Sherman act of 1890 did not repeal that part of the Bland act; and, therefore, that the act of 1837 is in force.

They had two grounds for their demand: The first was that the Congress of the United States in 1792, having granted to the people of the United States the right to have their silver coined, that act was not repealed by the act of 1837, but was reenacted and it continued on after the act of 1873, dropping the silver dollar from coinage, because that act, if it did drop the coinage of the silver dollar and did operate to prevent the people from the enjoyment of this constitutional and vested right, was unconstitutional. That there is now no law upon the statute books giving legal-tender quality for the silver dollar, except the Bland act, which simply modified the act of 1837, so far as to provide that the silver dollar of 412½ grains standard value should be a legal tender for all debts, public and private, unless the contract otherwise expressly provided. Those were some of the grounds for the demand made in this case that a writ of mandamus should issue.

I hope that that case will be advanced on the docket of the October term. The case was predicated in the first instance upon the opinion of a gentleman whom I think this Senate will recognize as being a very sound lawyer, the Hon. Mr. Garland, the former Attorney-General, but who, perhaps feeling some motives of delicacy because of his connection with the national Administration, which was hostile to the theory of the petition in this case, though he had the right to go into the Supreme Court and argue the question before that court, has retired from the case, and it is now in the hands of two gentlemen, Messrs. Shellbarger and Wilson, who will argue the case in the Supreme Court when it shall be heard.

I say I hope that the case will be advanced on the Supreme Court docket, and that the people of the United States will ascertain from the supreme tribunal of their country whether they have this constitutional right or not; for if they ever did have that constitutional right, they have it yet. It can not be a constitutional right and at the same time a right dependent simply upon the will of Congress; but if it ever was a constitutional right, it is yet a constitutional right, and if it is such, then the act of 1873, merely dropping the dollar from the coinage, does not destroy that right. It can not be destroyed by "addition, division, and silence." It is a good dollar yet under the Constitution.

I do not deny as a lawyer that the Congress of the United States, by this manner of legislation, can always furnish to the Supreme Court of the United States an opportunity that they

will be thankful for, and will naturally adopt, of avoiding a question when it comes up. We know how that is. Unless you put the question into such form as that they are compelled to decide it, they will say to themselves, "If we make the decision perhaps it will be *obiter*." They do not care to dig up any more snakes than we can conveniently kill. I grant you that the acts of Congress already in force bearing upon this question and the present bill, if it shall ever become a law, may have a material bearing upon the proposition whether we can get the Supreme Court of the United States to face the question; I think they will find occasion, perhaps, to evade it; to get around it, unless Congressional legislation forces a decision.

I propose now to advance that cause from the Supreme Court docket into the Senate of the United States and to take your judgment upon it. It will probably be put in such form that you will be compelled to vote upon it before we get through with this bill. I am as anxious for having this question decided as the national banks are for having it postponed. I want the supreme legislative tribunal of the country, the Congress of the United States, to say whether or not the people have this constitutional right and whether they will be engaged in measures to destroy it, or whether they will legislate so as to give it a fair chance.

Therefore, Mr. President, I shall adopt this brief of the counsel in the case, and will consider the case as pending before the Senate. Here is the record setting forth the facts I have stated, and I propose to argue this case now as a question of law before this great tribunal. Then, after the argument shall have been finished, it will be for you to say whether or not the people of the United States, myself included, as I remarked awhile ago, have the constitutional right to have their silver coined at the Mint equally with gold, or whether that constitutional right belongs only to gold, and does not include silver. Now, the question is presented, and I am going to argue it upon this brief. I shall do these gentlemen the justice to say that I shall follow their great brief in my argument, without a dissent upon any vital proposition which they have stated.

Mr. BUTLER. Who are the gentlemen?

Mr. MORGAN. Messrs. Shellabarger and Wilson, as well as Mr. Garland. Here is the statement of the case:

The complainants are the owners of a bar of silver.

They presented it at the mint in Philadelphia and requested that it be coined into dollars.

This request was refused, on the ground that there is no law authorizing such coinage.

The plaintiffs claim that it is their right, under the Constitution, to have their silver converted into coin, and that is one question presented by this application for mandamus.

They claim this judicial right. I claim it before the Senate of the United States as their right to have legislation to remove doubt and difficulty, to have legislation that will clear up the atmosphere around the Supreme Court, so that that court can find no excuse, no judicial reason for not deciding the case upon the questions presented by this brief.

They further claim that by existing statutes they have this right.

The presentation of the constitutional question requires an examination

of the conditions existing before and at the time of the adoption of the Constitution, which we will now briefly present:

LEGISLATION TOUCHING THE COINAGE OF SILVER AND GOLD.

In 1666 an act was passed by the English Parliament entitled "An act for encouraging of coinage." It, in substance, enacts that whatsoever person or persons, native or foreigner, alien or stranger, shall from and after the 20th day of December, 1666, bring any foreign coin, plate, or bullion, of gold or silver, in mass, molten, or alloyed, or any sort of manufacture of gold or silver into His Majesty's mint or mints within the Kingdom of England, to be there melted down and coined into the current coins of this Kingdom shall have the same there assayed, melted down, and coined with all convenient speed, without any defalcation, diminution, or charge for the assaying, coinage, or waste in coinage, so as that for every pound troy of crown or standard gold that shall be brought in and delivered by him or them to be assayed, melted down, and coined as aforesaid there shall be delivered out to him or them, respectively, a pound troy of the current coins of this Kingdom, of crown or standard gold, and for every pound troy of sterling or standard silver that shall be brought in and delivered by him or them to be assayed, melted down, and coined as aforesaid there shall be delivered out to him or them, respectively, a pound troy of the current coins of this Kingdom, of sterling or standard silver, and so proportionably for a greater or a lesser weight.

By the second section of this act it is provided:

"That there shall be no preference in point of assaying or coinage; but that all gold and silver brought in and delivered into the mint to be assayed and coined, shall be assayed, coined, and delivered out to the respective importers, according to the order and time of bringing in and delivering the same into the mint or mints, and not otherwise; so as he that shall first bring in and deliver any gold or silver to be coined and delivered, and he or they that shall bring in and deliver any gold or silver next to be accounted the second, to have the same assayed, coined, and delivered, and so successively in course."

A penalty is then provided in this section for giving any preference to any person in entering any gold or silver contrary to the true intent and meaning of the act.

(See International Monetary Conference, 1873, published by Department of State, Doc. 58, Forty-fifth Congress, third session, pages 309, 310.)

This act continued in force, by virtue of subsequent parliamentary enactments, until 1798.

This was the condition of the law of England, on this subject, for a century and quarter prior to the adoption of the American Constitution; and as appears from this at the time of the Declaration of Independence, no preference in respect of coinage was given to either metal, but both stood upon an exact equality.

Silver and gold by the common law of England were the only money metals, and silver and gold coin was the only money known to the English people as money.

The Articles of Confederation reserved to the several States the right to coin money, Congress to regulate the alloy and value of coins to be made, in the following words:

"The United States in Congress assembled shall also have the sole power of regulating the alloy and value of coin struck by their own authority or by that of the respective States." (Articles of Confederation, July 9, 1778.)

On the 6th of July, 1785, the Continental Congress resolved "that the money unit of the United States of America be one dollar." (Journals of Congress published by authority, Philadelphia, 1801, volume 4, page 545.)

That law has been dropped. . That law has been lost in the act of 1873 and by its translation into the Revised Statutes. The honorable Senator from Tennessee [Mr. BATE] the other day pointed out very distinctly, and with great power, the very important and significant fact that we have now no law fixing the unit of our money, fixing the admeasurement unit, that the money of the United States of America shall be \$1, not a dollar of gold, not a dollar of silver, but a dollar. That is the money of account; that is the unit, and it makes no difference here, as it makes no difference in China, where they have nothing that is a legal tender but copper coins, and where their unit is a copper coin, as to whether gold is high-priced or silver is high priced. The unit is always the same and is the admeasurement

of contracts, the admeasurement of prices. The yardstick is always the same. Whoever makes a contract or bargain, express or implied, makes it upon the basis of that admeasurement.

It is necessary that money in a government of laws should have a unit. We got our unit and made it a dollar. How did we get it? We got it by consulting the purchasing power of gold and silver in respect of all the great material substances consumed, food, drink, and wear, etc., for years and years back, as far as our splendid statesmen at that time could trace the history of such a thing; but when they came down to particulars, when they wanted to find out exactly what the admeasurement unit was to be, they found that the Spanish milled silver dollar was in common circulation among the people of the United States, having been minted at different dates, perhaps for a century. So they took a thousand Spanish milled dollars, cleaned them with acids until there was nothing left but pure silver, then they melted them together, weighed them, and then divided them out into a thousand equal parts. In that way they got the weight of one part as being 375.64 grains of pure silver, which was taken as being the representative of a dollar, as being that which was the yardstick of the dollar. That is the way we got it.

But that is gone. That is out of this question. We do not seem now to need any unit; the national banks do not need any; the bullion dealers do not need any, and, therefore, the people must not have it. We need Government obligations called dollars, and the like of that, but it seems that we do not need any unit. That is in the way of the speculator. We must not have it because it is in the way of the speculator. We can not afford to go along with Hamilton, Jefferson, and those men, and put a unit into the statute based upon both metals, because it might give offense to the bullion dealers. We must not do that. That is too great an undertaking for the patriotism and courage of this money-loving and money-worshipping age.

On the 8th of August, 1786, the Continental Congress resolved as follows: "That the standard of the United States of America for gold and silver shall be eleven parts fine and one part alloy."

Now, mark you, that is the standard. That is not the unit. It has not anything to do with the unit at all. The unit is neither gold nor silver.

That the money unit of the United States being, by the resolve of Congress of July the 6th, 1785, a dollar, shall contain of fine silver 375.64 grains. (*Id.*, volume 4, page 707.)

Now notice the language. The money unit of the United States being, by the resolve of Congress of July the 6th, 1785, a dollar, not a gold dollar nor a silver dollar, shall contain 375.64 grains. That shows the measurement, the weight.

This resolution also provides for the minor coins of exact proportionate value.

October 16, 1786, the Continental Congress enacted an ordinance for the establishment of the mint of the United States of America, and for regulating the value and alloy of coin; and among other provisions is the following:

"And it is hereby further ordained that the certificates to be given by the assay master to persons who shall lodge gold or silver in the mint for coinage shall be on fine blank paper, and expressed in the manner and form following, to wit: 'The mint of the United States. I acknowledge to have received of A. B. for coinage (here insert the weight) of (insert the species) bullion, for the amount of which pay to ———, or bearer, the sum of

—, at ten days' sight, agreeable to the custom of the mint. C. D., assay master, to E. P., paymaster of the mint of the United States of America.”

From as early as 1704 the Spanish milled dollar was recognized as the standard of money unit. Its place as a money medium is expressed by Mr. Jefferson in the following language:

“The unit or dollar is a known coin, and the most familiar of all to the minds of the people. It is already adopted from South to North, has identified our currency, and, therefore, happily offers itself as a unit already introduced. Our public debt, our requisitions, and their appointments have given it actual and long possession of the place of unit.” (Washington's Life of Jefferson, vol. 1. 162, 165.)

The Spanish milled dollar was by the Continental Congress recognized as the money unit by an act of May 3, 1775, by which act a bill of credit was issued promising to pay in Spanish milled dollars or in the several species of coined silver or gold.

June 22, 1775, the Continental Congress resolved:

“That a sum not exceeding \$2,000,000 of Spanish milled dollars be emitted by the Congress in bills of credit for the defense of America.”

It seems that silver had some little connection with the war of our independence. Without it we never could have conquered.

July 25, 1775, authority was given to issue bills to the amount of 1,000,000 Spanish milled dollars.

Many other acts recognizing the Spanish milled dollar as the money unit were passed by the Continental Congress up to 1786, the details and particulars of which it is not necessary here to state. What is here stated is for the purpose of showing that the Spanish milled dollar, for a long time prior to the Articles of Confederation, and during the Confederation, was recognized as the money unit, and thus this matter stood until the taking effect of the Constitution of the United States in 1789.

Now, you see we have got two covers for our position. One is the English statute that stood there unrepealed and unaffected by the colonies until after the independence of America was recognized by Great Britain. Then we had the continued and persistent action of the Congress of the Confederation following right along exactly in the same channel.

By an act of Parliament of 1750 (23 George II) all contracts, debts, and dues whatsoever were “declared to be payable in silver at 6s. 8d. per ounce, and all Spanish milled pieces of eight of full weight shall be counted, taken and paid at the rate of 6s. per piece for the discharge of any contract or bargain to be made after the said 31st day of March, 1750, the halves, quarters, and other less pieces of the same coin to be accounted, received, taken, or paid in the same proportion.

There we got the legal-tender quality of the Spanish milled dollar in a statute enacted by Parliament, that hovered like the air all over the colonies and regulated the right of every person in this country.

And thus, by an act of Parliament, the Spanish milled dollar had recognition in England and in the American colonies and silver was made a standard of all contracts. This provision remained in force until long after the Constitution of the United States was adopted.

From the foregoing it appears that from 1666 until after the adoption of the American Constitution free coinage prevailed in England.

From 1707 all contracts in England and in the American colonies were dischargeable in silver, and from the date last named Spanish milled pieces were a legal tender and were a discharge of all contracts, debts, bargains, dues of any kind whatsoever. And this coin continued thus recognized and legally sanctioned by the English Parliament until after the adoption of the Constitution of the United States.

During the confederation in this country, silver and gold stood on an equal footing as to coinage, and the Spanish milled dollar occupied the position of being the monetary unit, as so admirably expressed by Mr. Jefferson in the quotation from him above given.

So that when the Constitution of the United States was adopted silver was in law and popular acceptance equal with gold as to coinage, and was a legal tender for the discharge of all debts, dues, and obligations of every kind whatsoever, and the Spanish milled dollar was the monetary unit of the entire country, North and South. And in this condition of laws, usage, and commercial habits of the people the Constitution was adopted, in which

it was provided that the "Congress shall have power to coin money, regulate the value thereof," etc.

And it may be here further observed that during all the period above-mentioned silver and gold coin was the money of England and of her colonies, and there was nothing else recognized as money, either by statute or by the common law. And this is made the stronger, if possible, so far as the condition of this country is concerned, by the fact that the English Parliament, by the act of fourth year, George III. 1750, had prohibited the colonies from issuing paper to be used as legal tender in payment of money.

So, you see, the denial of our right is hedged in on every side. If the Constitution of the United States had any reference at all to existing conditions—social, religious, moral, political, personal, or monetary—it had relation to the conditions then existing, and they are the law of interpretation for every word. There is not a lawyer in the world who would ever think about discarding all the facts of the existing situation when he came to ascertain the meaning of any expression in the Constitution of the United States.

The question, therefore, that is presented, and that will hereafter be more fully considered, but for convenience is now stated, is this:

Silver and gold being, as we have heretofore shown, the money metals, and silver and gold coins alone being regarded as money, and silver and gold standing alike as to coinage, and silver being the legal tender for all debts, etc., and the Spanish milled dollar being the unit of money; this being the condition at the time when the Constitution was adopted, did the provision of the Constitution authorizing Congress "to coin money, regulate the value thereof," empower Congress to so legislate as to destroy or impair the one or the other of these metals as a money metal? Or, on the other hand, did the adoption of the Constitution, in authorizing Congress "to coin money, regulate the value thereof," restrict Congress to the mere matter of coinage, and reserve to the people the right to have these metals continue to occupy the same relations that they had at the time that the Constitution was adopted?

It will be our purpose to attempt to show that the adoption of the Constitution, with the provision in it authorizing Congress to coin money and regulate the value thereof, did not confer upon Congress the power to destroy either of these metals as a money metal, or to in any way deprive the people of the benefit of either of these metals as a money metal, or to deprive the people of their long-recognized and sovereign right of free coinage of either or both of these metals into coins of required weight and fineness without limit, and for their use and benefit.

I wish to advert to a feature of our Constitution which these able counsel have not elaborated in their brief in the manner in which a Democrat always feels bound to do. I refer to that notable feature of Democratic policy which came from Democratic hearts and heads, the tenth amendment, which places a limitation upon the powers of Congress, so that it should not use those that were not therein expressly granted or arose by necessary implication and which expressly reserved all other rights to the States or the people.

While the Constitution of the United States probably would have received the same construction in the courts, and by publicists and constitutional lawyers, that was placed upon it in the tenth amendment, it was nevertheless improved by that amendment, which operated upon every word and line in the instrument, including every power granted to Congress and every power reserved. It was easy enough to find out what the powers were that were granted to Congress, because the Constitution expressly contained them or else they flowed as a necessary implication from the granted powers.

The honorable Senator from Delaware says very justly that the object of the tenth amendment was to make it the companion

of every specific grant, qualify it and restrain it; but it was not the object of that amendment to define the powers that were reserved to the States or to the people. All powers not herein granted are reserved to the States or to the people. It did not go into any definition of the reserved powers and rights. They all remained except those taken away.

Now, there are rights reserved to the people and to the States in respect of every function, faculty, opportunity, condition, employment, and property of every human being in the United States. They are not mentioned, but they are all reserved, and they are distinctly reserved, and when reserved they are put entirely beyond the power of Congress, for they are reserved to the people and are not granted to Congress.

The right to own property is reserved to the people, but it is not mentioned in the tenth amendment or anywhere else in the Constitution. However, the right to tax is reserved to the State. can not tax your property nor you mine. The power of taxing property, and confiscating it in a degree and after a form, is reserved to the State.

The right to be a free man at 21 years of age is reserved to the people. Where does a man get the right to be free at 21 years of age? He does not have to go to the United States Statutes or a State statute to find it. It was the common law of England in force at the time the Constitution was adopted, and the right was reserved to every man to be free, at 21, of his father's dominion and service.

But the right of guardianship of the person and property of one under that age is reserved to the State by the same law, and we have many statutes affecting the right of guardianship.

The right to marry is a common right of all who are not married, but the State has reserved the right to regulate marriages and to dissolve them. Two people can not dissolve marriage by agreement. That right is reserved to the State, but the right to make a marriage belongs inherently under the common law to two persons who have the lawful capacity to enter into the marital engagement.

The personal liberty of movement, free from unlawful restraint, is reserved to the people. It is not necessary to have an act of Congress or any other act of any other government to permit me to go from here to my house or back, to go along the public highway or anywhere else where I am not a trespasser. But the right to restrain that liberty when it is being criminally or dangerously abused is reserved to the State. Congress has no power over it.

The right to make contracts is reserved to everyone who is capable to make a contract, but the right to enforce the contract by a judgment is reserved to the States, as between the citizens thereof, and to the United States along with the States as between persons who are residents and citizens of different States.

The right to labor for one's support or profit is reserved to everyone, but there is no constitutional guaranty of an express character in respect to that right which is universal and universally necessary. However, the right to regulate labor so as to preserve the sanctity of the Sabbath and in other respects is reserved to the State.

The right to bear arms is expressly reserved to the people, but

the right to compel them to use those arms in war against insurrection and to resist invasion is reserved to the States.

The right of personal security, including the security of property, is reserved to the people, but the right to punish the violation of that security is reserved to the State. A man cannot take the law into his own hands even to protect his property unless it is upon the doctrine and necessity of self-defense.

The right to the free and uncontrolled use of food and drink is reserved to the people, but the right to tax such supplies, and to prevent their adulteration and the evils of extortion in the sale of them is reserved to the State.

The right to freely travel to and fro in this country and to foreign parts, is a right reserved to the people, but it is the right of the State to regulate travel so as to conform to safety and to moral and religious duty, as well as the health of the public.

The right to wear clothing and to determine its fashions is reserved to the people, but the right to prohibit obscene exposures of the person, and to prescribe uniforms of dress for those in the public service, is reserved to the State.

None of these rights, and many others that could be mentioned, are of any value to the State, or to society, or to the individual if we strike out the right of the people to have money as a part of the fruit of their labor, and as the common measure of value, in the interchange of their labor and productions. Without the use of money, as a measure of values, civil government could not exist, except only as the despotism of power should choose to permit it.

In the Constitution of the United States this right to have money and to produce money is placed among the rights reserved to the people, and the power and duty of coining it and regulating its value is granted to Congress. The right reserved to the people is broad and unlimited by any form of restrictive words, while the power granted to Congress is special and limited and is the proper subject of strict construction.

Except Great Britain, and the United States following along in the channel of her legislative action and in the channel of her benevolence and beneficence toward her people, no country, I believe, in the world has ever granted to the people the right to own mines and to take the products thereof and have them coined at the mint. Certainly no Latin nation has done so. All through South America and Mexico the law is that the government owns the gold and silver—not the copper, or the lead, or the coal. The crown owns the precious metals, and whoever will take them must take them by the license of the crown, and not in virtue of his own right; and if he have not the license of the crown he is derelict and a culprit if he undertakes to take the gold and silver out of a mine.

In the United States, following, as I said, the example and precedent of Great Britain, the rule is just the reverse. Those countries adopted a system under which private enterprise should be encouraged by law for the purpose of furnishing money, without which civilization could not exist in a liberal and free government. It might exist in a despotism where the money dug from the mines belonged to the king and was to be doled out to the people according to his supreme and arbitrary will, but in a free government the right came to the people as a part of their

liberties. The people had the right to dig gold, to dig silver, and the correlative right of having it coined by their government, as a personal liberty.

Mr. GEORGE. And to make it legal tender.

Mr. MORGAN. Of course; it would not be money unless it was legal tender. There is not anything that can be called money unless it is legal tender.

Mr. GEORGE. In some amount at least.

Mr. MORGAN. I must have the power to compel my creditor to take it in payment of debt to some amount; otherwise it is not money.

Mr. GEORGE. It must have a specified weight and fineness.

Mr. MORGAN. That is all. I being a creditor, my debtor comes to me and offers to pay me in a commodity, and I tell him to go to jail and stay there until he is willing to pay me in legal tender. I put his property into the hands of a sheriff and tell him to sell it until he is stripped down to the bone. I take his property, and have a right to do it. I tell him that what he offers me is not money. You might as well tender me so many sheep and so many hogs in discharge of a judgment as that. Money must have the legal-tender quality; and when paper or silver or gold has the legal-tender quality it is money. You may take a gold dollar and roll it out until it is as thin as the gold sheets that a dentist crams into your tooth when he is mending it, and upon that you may write a promise to pay a dollar. It is not the gold in that sheet that makes the money. It is the promise that makes the money, which is to be paid in money, coin of gold or silver, that has the right superscription and the right weight, and has not been mashed out until it is as thin as gold-leaf.

Mr. GRAY. Suppose it is a matter of contract?

Mr. MORGAN. Well, I do not think I will to-day, but I will pretty soon go into the question of the matter of contract, and I shall wish that the Senator from Delaware may be here, because he is a very fine lawyer. I will be very happy, indeed, if when I am on the floor debating that subject he will ask me that question or any other question relating to the subject, because I think I can demonstrate to his own satisfaction that if there is power in the United States Government, or in a State government either, to create a legal tender and to make it the solvent of debts between two individuals, there can not be any power on the part of two men to dispense with it so as to make the Government adopt it and carry it into a judgment. That I will debate with my honorable friend whenever I get a fair opportunity, and inasmuch as we are not in a hurry about this matter at all, we shall have plenty of opportunity.

Mr. GRAY. I am asking for information. The Senator derives the power in the Federal Government to prepare a legal tender from the grant of power to coin money, I suppose. It has been exercised, I know, and is beyond debate.

Mr. MORGAN. Yes.

Mr. GRAY. Where does it come from?

Mr. MORGAN. It is such a curious question that comes here—

Mr. GRAY. It undoubtedly resides in the States, because it is expressly recognized in the Constitution.

Mr. MORGAN. The court have to treat it like the New Testament treats the Holy Spirit:

The wind bloweth where it listeth, and thou hearest the sound thereof, but canst not tell whence it cometh, and whither it goeth; so is every one that is born of the Spirit.

It is that way. That is the idea of the legal tender, the saviour, the redeemer, the solvent of contracts. The power to create a legal tender exists because it is one of the inherent qualities of money. The Government has it naturally and necessarily, otherwise it is not a sovereign power. It is the part of a sovereign to do this. All sovereigns exercise this power unless a constitution restrains them.

I am not going to defend the Legal-tender cases. At the same time I have grown old enough now to understand that when the Supreme Court of the United States as a court of ultimate authority declared that the Constitution of the country gave to Congress the power to make a paper promise a legal tender I must accept the situation. While I might not vote to carry it into effect if it was left to me, I must recognize the decision and must rule my action by it. Otherwise I fly in the face of justice; I fly in the face of my country; and it must be a very extraordinary occasion to justify a man in doing a thing of that sort.

Now, one word more about the right to coin money. I have mentioned the fact that no other nation in the world, as I think, ever granted the right to have money coined to its own citizens except Great Britain and the United States, and when our Constitution was ordained this right was reserved to the people. Well, some of the most precious liberties we have are amongst this great constellation of reserved rights which we derived from the common law and the statute laws of Great Britain. They are none the less potent, none the less useful, because they came from a source from which we found it necessary to sever all political connection. On the contrary, they belong to the instinctive exercise of power by that great family who have taken the lead in the march of civilization the world over, and who will hold it until the trump of time has sounded the dissolution.

I am proud of those rights, proud of those inheritances, and I do not propose to give them up. I find amongst them the right that Great Britain granted to her colonies, and would grant to them now if she had a written constitution which Parliament could not violate at its will, and which, when granted to the people of the United States, and exercised by them, came to them under the sanctions of a written Constitution to which we are sworn. These are rights that we can not deny.

I understand that the Constitution is doing that for me, not for the Government of the United States, and is it not a proud privilege? Is it not a proud and essential factor in the splendid schedule of the liberties of an American citizen that he has the right by his daily labor to dig the precious metals from the bosom of the earth and carry them to the mint and contribute them to the money of his country? It does not require a king, or a bank, or a banker, or some great concentration of financial or monetary power in the United States to create money; for a man who can go and dig with his pick and bring the precious metal to an assay office and to a mint to have it coined has the

right to contribute that into the circulation of his country, and to say to the banker, "This is my labor, contributed here as money, and I have the right under the Constitution of the United States to have it without your leave."

A man raises a bushel of wheat. He has to get a market for it. He must find it with his neighbor who has not any wheat, or in some distant place where persons need it. He contributes that to the commerce of the country and the commerce of the world. So of all his other productions. Who shall prevent him? Who shall modify his right? Who shall say: "You may raise wheat for the market, but you shall not raise corn?"

The Constitution of the United States, because it commands Congress to coin money and to regulate the value thereof, supplies to the American citizen who is a miner a government-market for his product. That increases its value by at least one-half. Sixty per cent is the rule which the mathematicians seem to have agreed upon as the ratio of the increase of value by imparting to gold or silver coin a legal-tender quality and a right to mint it.

Now, a man has got that right. The Government of the United States engaged that he should have it when it said to Congress, "You shall coin his money." What sort of money? Gold money? No, gold and silver, united in that bond of wedlock God celebrated even in the bowels of the earth, by uniting them in such bonds as that it takes fire to separate them, who in His sacred teachings through the divine Gospel and record of His revelations to the world has said to mankind, "These are money;" who evidently had indicated in every possible way that these metals were intended to subserve the purposes of commercial exchange between people, and therefore the very elementary purposes of civilization. When He has thus celebrated the bond of wedlock between these metals let not the money-dealer and the Shylock forbid the bans or dissolve the bonds.

Therefore, Mr. President, I must insist under the Constitution of the United States (and I propose to sustain my insistence by still further argument and authority) that it is a right of the American citizen to contribute money for himself and his neighbor who has not got it; and that it is necessarily a defensive and a protective right, for if that right did not exist and might have been created by Congress in some pet corporation or in a monopoly to some individual, Congress not being controlled by these elementary restraints of the Constitution could have given the right to coin money and regulate the value of it, or to make money, into the hands of private or public corporations, or into the hands of individuals, and it could not have handed the people over to a worse temporal perdition than any that greed or the lust of power can now contrive. It was a great right and a great salvation that was thus reserved to the people.

We seem to have been so little under the necessity of considering the personal individual rights of man under the Constitution of the United States when Congress chooses to override them that we appear to have lost sight of them, and in times of excitement we go headlong and with roughshod feet and sometimes trample them into the dust. It is time we had stopped. Democrats, it is time we had got back to the landmarks of the fathers. It is time we had returned to the ground where Jeffer-

son and Madison and Monroe and those men placed the personal rights of the people, under the protection of the Constitution. It is time we recognize in the American citizen the possessor of constitutional rights that are beyond the power of Congress to deny to him. It is time that we recognize the fact that the people of this country have a right superior to the right of everybody else to bring these precious metals to our mints and have them coined into money for circulation amongst them.

Ah, what a great conservative right that is! How it breaks the power of the monopolist! How his grasping cupidity dies the death in the presence of such a power as this! How it is that the laboring man by the toil of his hand, earning a penny-weight of gold or an ounce of silver a day, which is the largest kind of a day's work, can have his earnings coined into money and go to his neighbor and say, "Give me a bushel of wheat or of corn to feed my family. While you are cultivating the earth and have the soil teeming with abundance for you, I am delving in the mine, and I bring forth and put into circulation here money, have it stamped with the *imprimatur* of my Government and your Government, that will serve you and your children as long as gold and silver will last. It is a good thing I am doing for the country and for posterity. I wish now to change my gold or silver dollar with you for wheat and corn." How much better a government that is than one that enables a board of directors of a national bank to say how much money a man shall have, when he shall be squeezed to death, and when everything in the country shall be inflated so as to stimulate the man into wild extravagance and hopeless speculation! How much sounder is it! How much more Democratic is that than it is to nurture and support these monopolies of money that are created by the law and hold their power by the authority of Congress.

Inasmuch as gold and silver were money when this Constitution was formed and it was said that Congress should coin money—and it is not said that Congress should dig money nor have it dug—I claim that it is the right of the citizen to dig it and to demand of Congress to coin it. Is that plain? The academician may think it is too plain. The people will not think so. In their ballot-box voices they will say yea and amen to what is uttered on this floor to-day, and you will all hear the sound thereof.

What did the Almighty make gold and silver for? It is very true that the Almighty seems to have had very great delight in the ornamentation of Solomon's Temple, and there was a great amount of silver used. It was burnished with silver. The vessels were of gold and sometimes of silver, but the purpose of this was to show the preciousness of the metals which answered as money for the people; to satisfy them that there was not anything else, diamonds or brass or bronze, or any combination to be made by alchemy or otherwise that could take the place of gold and silver.

But He did not impart to it an intrinsic value. Gold and silver have less intrinsic value, if we speak of their usefulness, than any other metals that may be named. Lead has a great deal more; so has zinc; indeed, almost any metal. Iron has infinitely more. You can not make a railroad bar of gold or silver that will stand the wear and tear. If it was as plentiful as iron

it would be of no use in building a railroad, a bridge, or a house. If you put it in the machinery of a locomotive it would melt before it got fifty miles from the depot, it is so soft, so malleable. If you would make a pocketknife of it, you could not cut an orange with it. If converted into a plow, it would not turn the sod. If you make anything else of it of a useful character, unless it be a handle of a knife or something of that kind, it is of little service to you. It is mere ornamentation.

Gold and silver, except only for the purposes of ornamentation and as money, are not valuable. Then why did the Almighty make it and hide it away in the bosom of the earth, and why have men back as far as the earliest dawn of history dug and delved in the mines and crossed oceans for the purpose of gathering it unless it was to be used as money? Why, the impress of nature and nature's God upon this question is undeniably true except to some abominable heathen who worships gold like a bullion dealer. Therefore, the intrinsic value of gold or silver as a metal has very little to do with its real value. Its commercial value for use in the arts, of course, has something to do with its value. It perhaps concerns it to the extent of probably one-half or 40 per cent; but the money value, when it has received the stamp of a government and a legal-tender quality, is not only good to the extent of the value of that stamp, but it is good beyond that, because that government and the people of the world with one accord regard it as the redeemer of promises.

Now, tell me of something else in all nature, metallic or otherwise, that the people without the assistance of law and without its command, naturally regard as the redeemer of promises. They give to gold and silver that attribute because they understand that the recognition of that fact is one of the very elementary considerations which constitute civilization.

Mr. ALLEN. Is there any danger of overproduction?

Mr. MORGAN. I will not enter to-day upon the question whether either of the metals can be overproduced. If either of the metals is overproduced it is an accidental circumstance, and it rights itself in the course of a decade or a few decades so that the parity or equality of volume adjusts itself. That is necessarily so, because when a mine is worked out once it is no longer productive; it does not yield any more gold and silver. That is the end of it. You have got as far as you can go and you must find another.

The chances are whether it would be a mine of gold or silver, whether it would be rich or poor. These accidents, of course, affect it one way or the other, but it is immaterial. The two metals, according to the standard weight of the two as regulated by the civilized nations of the earth, say for a period of three hundred years or something like that, have worked in harmony with each other, so that the world understands in a commercial sense how much a pennyweight of gold will buy of the necessaries of life, how much an ounce of silver will buy. So it comes around, and the great ultimate final test is that upon which Mr. Cleveland has laid so much emphasis in his letter to Governor Northen, where he says, in speaking of the parity between gold and silver, that they should be maintained in respect of their purchasing power. My colleague was right when he interpreted Mr. Cleveland in his letter of acceptance of the Democratic platform, as

meaning the parity of the two metals in purchasing power after they were coined. He acknowledges them, and I am very delighted that he has put that into his letter to Governor North-ern, because there has grown out of this discussion a good deal of conjecture as to what his future purpose may be.

I was following, when I was led off into this discursive state-ment about some other matters, this very admirable argument presented in the brief, and I will go back to it, for it is a very able opinion:

Before proceeding to discuss this question, we now bring attention to the manner in which these metals have been dealt with by Congress.

1. Act of 2d of April, 1792 (1 Stats., 246, section 9, page 248), prescribes the coins of the United States and the character thereof.

2. Section 14 makes it lawful for any person to bring to the mint gold and silver bullion to have them coined, and requires that the bullion so brought shall be assayed and coined free of expense, and the depositor in lieu of the bullion to receive coin of the same species with the bullion deposited, weight for weight, etc.

3. Act of the 18th of January, 1837 (5 Stats., 136).

Section 8, page 137, and section 9, same page, *et seq.*, regulates the weight and character of the gold and silver coin.

4. Section 14 provided that gold and silver bullion brought to the mint for coinage shall be received and coined by the proper officers for the benefit of the depositor: *provided*, That it shall be lawful to refuse at the mint any deposit of less value than \$100, and the subsequent sections regulate the manner of receiving and accounting for said bullion.

5. Section 38 repeals all acts and parts of acts inconsistent with this act.

6. Act of March 3, 1853, sections 5 and 11, provides for free coinage of silver and gold.

7. The act of the 12th of February, 1873 (17 Stats., 424), is a general act regulating the whole subject of coinage, and contains sixty-five sections, and repeals all inconsistent acts in the sixty-seventh section.

8. Section 13 requires that nine out of ten parts, by weight, of both gold and silver coins shall be pure metal, balance alloy, silver alloy to be copper.

9. The fifteenth section provides that the silver coin shall be a trade dollar, a half-dollar, quarter-dollar, and dime, the trade dollar to be 420 grains troy, etc., and makes them a legal tender at nominal value for not exceeding \$5.

The seventeenth section of the act, page 427, is in these words:

"That no coins, either of gold, silver, or minor coinage, shall hereafter be issued from the Mint other than those of the denominations, standards, and weights herein set forth."

10. Section 19 authorizes the owner of gold and silver bullion to have it cast at the mint into bars of fine metal or of standard fineness, as he may prefer, with a stamp upon it designating its weight and fineness.

11. Section 20, page 427, authorizes the owner of gold bullion to have it formed into bars where the deposit is not less than \$100.

12. Section 21, page 427, authorizes the owner of silver bullion to deposit the same at any mint, to be formed into bars or into dollars of the weight of 420 grains troy, designated as trade dollars, and no deposit of silver or other coinage shall be received; but silver bullion contained in gold deposits and separated therefrom, may be paid for in silver coin at such valuation as may be from time to time established by the Director of the Mint.

I pause here to call the attention of the Senate, especially the learned lawyers who surround me in this body, to section 21, page 427, of the act of 1873. It authorizes the owner of silver bullion to deposit the same at any mint, to be formed into bars or into dollars of the weight of 420 grains troy, designated as trade dollars, and no deposit of silver or other coin shall be received.

Now, what does that mean? I ask the learned Senator from Iowa whether, under the act of 1873, any provision of law was made for the purchase by the United States Government of silver bullion to coin into trade dollars?

Mr. ALLISON. Not as I understand the law.

Mr. MORGAN. None. There was none, I am sure of it, and I referred to the honorable Senator because I knew that the peo-

ple of the United States would take his testimony upon a point of that kind as being conclusive of the fact. Now, take the fact and consider it in connection with the language of that statute, and do you not see that in the act of 1873 the right to deposit silver bullion in the Treasury and to have it coined was preserved, and that the only change made was that it should not be coined into dollars of $412\frac{1}{2}$ grains, which had been dropped from the coinage, but might be coined into trade dollars.

That is the act of 1873. There was this right perpetuated in the act which destroyed the silver dollar, and it exists to-day unless somebody can point out a law that destroys it. No man can do it. There it is in that act which destroyed the coinage of the $412\frac{1}{2}$ -grain dollar, and it remains in all the subsequent legislation untouched and unscathed by a word. So the right exists even under the act of 1873 for the owners of silver bars to go there and have them coined. Now, under the Bland act, which was preserved by the Sherman act from repeal, he can have it coined into dollars of $412\frac{1}{2}$ grains.

Mr. GEORGE. What is the last proposition of the Senator from Alabama?

Mr. MORGAN. I say now, in consequence of the Bland act, which restored the dollar of $412\frac{1}{2}$ grains to coinage, which was not affected or repealed in that particular by the act of 1890, the right remains and connects itself with the coinage of the dollar of $412\frac{1}{2}$ grains, which gives the right to carry it to the mint and have it coined.

That it has been overlooked, that it has been disregarded, that it has been ignored, that it has been contemptuously thrown aside by the Secretaries of the Treasury and the managers of our financial system is no proof of its nonexistence, for they have trampled other laws under their feet with the most resolute and desperate purpose. Never in the history of any government has such treatment of laws been found as in the despotism of the Secretaries of the Treasury, in conjunction with the national banks, to trample out every law that stood in the way of their peculiar and pet theories and their peculiar monopolistic advantages. That is a bold declaration. I will make it good against all comers.

I challenge investigation of that statement upon the law and the practice of the Government. They pay no regard to the statutes. The Sherman act was perverted, absolutely perverted, construed away, just as the right of free coinage was construed away when it was secured by the Constitution of the United States and provided for by the act of 1837. Construction will do anything with the rights of any man who will submit to it. The worst tyrannies that have ever been in this world were the results of false construction, eating, like a cancer, from point to point and step by step, sapping nerve after nerve of vitality, until it finally attacks the citadel and destroys the victim. Let us have the truth, the honest truth. If constructions are to be made, let them be made in favor of the people and not against them; in favor of right and life and liberty, and not in the direction of tyranny.

I recur to the brief. It says:

Sections 22 and 23, page 428, provide for the way in which the bullion may be received and receipted for, etc.

That is the act of 1873. They must give a receipt for it. What more? To coin it. To coin it for whom? It does not belong to the Government. To coin it for the man who brings it there. Into what? Into trade dollars; and then when you afterward abolish the trade dollar and substitute for it the dollar of 412½ grains it does not affect in the slightest degree the right of all men to carry their bullion there and get their receipt for it. The mint is obliged to coin it simply in another form. That is all. The right is not affected.

Section 25 provides that the charge for converting gold bullion into coins shall be one-fifth of 1 per cent, and the charge for converting standard silver into trade dollars, or melting and refining when bullion is below standard, shall be what is fixed by the Director of the Mint and Secretary of the Treasury.

There is the right to take it, and they charge you for it. They do not fix the charge with regard to silver as they do in regard to gold, but leave it to the discretion of the Director of the Mint and the Secretary of the Treasury. You must pay your license fee in order to have the money coined. Whose money is it when it is coined into dollars of 420 grains? It is the money of the man who carries it there and takes the receipt for it, pays for it, and receives the money back. It is silver money. That right not being repealed, whose money is it now, when a man takes it to the mint, as these gentlemen did take a bar of silver to the mint and demanded coinage? It is not the money of the United States when coined. Its coinage is refused because, says the authorities, there is no express provision in the statutes that we shall give coin certificates or accept silver for the purpose of being coined into dollars of 412½ grains. Yet there is no other dollar.

There is not on the statute books of the United States to-day any dollar except one of silver of 412½ grains. There is no actual dollar; there was a unit, but that was dropped in the act of 1873 and is gone; the coined dollar is gone, except as it is protected by the Bland act and saved by the Sherman act, and that is in silver. The gold dollar is repealed; you can not coin any more of these. Where do you get your dollar from? You must get it from the act of 1837, the act of 1873, the act of 1878, and the act of 1890; and tracing it along through all these channels you find that the silver dollar is attended continually and invariably with the right on the part of the citizen to have it coined at the mint.

Sections 27, 28, and 29 provide for procuring bullion of silver for coinage into the coin authorized by the act, etc.

They may go and buy it also, but the party who brings it there is not bound to sell it. He may have coin made of it.

The provisions of the act of the 12th of February, 1873, are now embodied in the Revised Statutes of the United States, sections 495, *et seq.* Section 3513 of the Revised Statutes is the one that provides for the trade dollar, etc.

Section 3516 of the Revised Statutes is the above, section 17, which provides that—

“No coins, either of gold, silver, or minor coinage shall hereafter be issued from the mint other than those of the denominations, standards, and weights set forth.”

□ The act of the 28th of February, 1878 (20 Stats., page 25), commonly known as “the Bland Act,” is one which in the fourth section repeals all acts and parts of acts inconsistent with this act.

The first section of the act reads as follows:

“That there shall be coined at the several mints of the United States silver dollars of the weight of 412½ grains troy of standard silver, as provided

in the act of January 18, 1837, on which shall be the devices and superscriptions provided by said act, which coins, together with all silver dollars theretofore coined by the United States of like weight and fineness, shall be a legal tender, at their nominal value, for all debts and dues, public and private, except where otherwise expressly stipulated in the contract.

That is the first clause in the Bland act.

Mr. GEORGE. Is that the first section?

Mr. MORGAN. It is not all of the first section. It proceeds:

"And the Secretary of the Treasury is authorized and directed to purchase from time to time silver bullion, at the market price thereof, not less than \$2,000,000 per month nor more than \$4,000,000 worth per month, and cause the same to be coined monthly as fast as so purchased into such dollars; and a sum sufficient to carry out the foregoing provisions of this act is hereby appropriated out of any money in the Treasury not otherwise appropriated. And any gain or seigniorage arising from this coinage shall be accounted for and paid into the Treasury, as provided under existing laws relative to the subsidiary coinage, provided that the amount of money at any one time invested in such silver bullion, exclusive of such resulting coin, shall not exceed \$5,000,000: *Provided further*, That nothing in this act shall be construed to authorize the payment in silver certificates of deposits issued under the provisions of section 254 of the Revised Statutes."

Section 254 is one authorizing the Secretary of the Treasury to receive deposits of gold coin and bullion in amounts not less than \$10, and to issue therefor certificates in denominations not less than \$10.

Section 2 of said act of 25th of February, 1878 (20 Stats., page 25), provides for an invitation to an international congress.

Section 3 of said last-named act provides that any holder of coin authorized by this act may deposit the same with the Treasurer or Assistant Treasurer of the United States, in sums not less than \$10, and may receive a certificate therefor not less than \$10, corresponding with United States notes in denomination. The section requires the coins so deposited to be retained for the payment of said certificates, and it makes the certificates to be receivable for customs, taxes, and all public dues, and authorizes them to be reissued. Section 4 of this act repeals all acts in conflict.

That is the silver-certificate act, which, I believe, was preceded in our legislation by an amendment to an appropriation bill.

The act of July 14, 1890, is the one which, in its first section, provides—

That is, the Sherman act—

that the "Secretary of the Treasury is hereby directed to purchase from time to time silver bullion to the aggregate amount of 4,500,000 ounces, or so much thereof as may be offered in each month, at the market price thereof, not exceeding \$1 for 371.25 grains of pure silver, and to issue in payment for such purchases of silver bullion Treasury notes of the United States, to be prepared by the Secretary of the Treasury, in such form and of such denominations, not less than \$1 nor more than \$1,000, as he may prescribe, and a sum sufficient to carry into effect the provisions of this act is hereby appropriated out of any money in the Treasury not otherwise appropriated."

Section 2 of the act is one providing for the redemption of said Treasury notes in coin, etc.

Section 3 of the act is in these words:

"Sec. 3. That the Secretary of the Treasury shall each month coin 2,000,000 ounces of the silver bullion purchased under the provisions of this act into standard silver dollars, until the 1st of July, 1891, and after that time he shall coin of the silver bullion purchased under the provisions of this act as much as may be necessary to provide for the redemption of the Treasury notes herein provided for, and any gain or seigniorage arising from such coinage shall be accounted for and paid into the Treasury."

Section 4 is in these words:

"That the silver bullion purchased under the provisions of this act shall be subject to the requirements of existing law and the regulations of the mint service governing the methods of determining the amount of pure silver contained and the amount of charges or deductions, if any, to be made."

Section 5 is in these words:

"That so much of the act of February the 28th, 1878, entitled 'An act to authorize the coinage of the standard silver dollar, and to restore its legal-tender character,' as requires the monthly purchases and coinage of the same into silver dollars of not less than \$2,000,000 nor more than \$4,000,000 worth of silver bullion, is hereby repealed."

That is all the harm that the Sherman act did to the Bland act.

Mr. GEORGE. It repealed nothing but the purchasing clause.

Mr. MORGAN. Nothing at all but the purchasing clause; just as it is proposed now to repeal the purchasing power of the Sherman act. What was the effect of that? The act of 1837, from which had been dropped under the revision of the statutes the provision in regard to coinage, by the act of 1873, was put on again. How? As it was in 1837, as a legal tender of standard quality, having every quality of the silver dollar.

What else? The act of 1873, coupled with the revision of the statutes in 1874, dropped the dollar of 412½ grains. That was all. It was never repealed; it was merely dropped from the list of coins authorized, and in its place was substituted the dollar of 420 grains.

Mr. HARRIS. If the Senator from Alabama will allow me, I will suggest to him that the act of 1873 simply dropped the 412½-grain dollar from the list of coins to be minted. The revision of the laws passed in 1874 demonetized silver.

Mr. MORGAN. That is to say, dropped the dollar unit.

Mr. HARRIS. Yes, and demonetized the silver dollar existing, and adopted the 420-grain dollar, which was a legal tender for \$5.

Mr. MORGAN. Yes, sir. There were two performances of a different character upon the body of the same victim; that was all.

Mr. HARRIS. Yes, that is it.

Mr. MORGAN. As the Senator from Nebraska [Mr. ALLEN] suggests to me, one was murder and the other was scalping. They scalped him before they murdered him; that was all. I have stated all the Sherman act did in regard to the Bland act, which had restored the silver dollar of 412½ grains, and restored along with it the right of free coinage.

Now, how a right of that sort once existing in the statute and under the Constitution, can be lost simply because it is not expressly repeated in subsequent legislation is more than I can understand. The act of 1873 followed the act of 1837, and they were both supplementary to the act of 1792. If you take the act of 1792 and trace it through its remodeling in the act of 1837 and in the act of 1873, you will find that the great substantial features of the act of 1792 have been preserved in the act of 1837 and in the act of 1873 with remarkable care, even to the language of the old act.

I can affirm as a lawyer to lawyers, to judges, to this great supreme tribunal, that there is nothing in the act of 1837 that is not incorporated into the Revised Statutes, except simply the express privilege of coining silver money and the dollar of 412½ grains—nothing else. It is all there.

As is the custom with us and all other enlightened nations, when we have established a good system of legislation, in subsequent legislation we do not tear up things root and branch and substitute new phraseology and new arrangement and the like; we adopt the old as far as we can, and improve and amend it. So it was here. The general coinage act of 1837, supplementary to the act of 1792, and the act of 1873 were carried into the Revised Statutes, preserving, as I repeat, every substantial provision found in the acts of 1792, 1837, and 1873, except that which related

specifically to the dollar of 412½ grains, giving the right to the American citizen to take his bullion to the mint and have it coined into dollars of 420 grains.

Only repealed so much of the act of February 28, 1878, entitled "An act to authorize the coinage of the standard silver dollar and to restore its legal-tender character," as requires the monthly purchase and coinage of the same into silver dollars of not less than \$2,000,000 nor more than \$4,000,000 worth of silver bullion.

The other sections of the act have no application to the present case.

It thus appears that from the adoption of the Constitution down to 1873 there was freedom of coinage as to both of these metals, and that the only change that the Congress of 1792 made or attempted to make with reference to this matter of coinage, was to ascertain with all the precision and certainty then available, what weight of fine metal equaled the average weight (value) of the Spanish milled dollar as then current in common use, and the money named in all contracts and to enact that just that value (weight) should become under a new motto and device the unit dollar of coinage. There was no change made in respect of the matter of free coinage, and the only thing that Congress attempted, under this provision of the Constitution, was to adopt devices such as to make national coins or give to them the stamp of this new nation.

So that for eighty-four years after the Constitution was adopted the right of the people to have free coinage of silver, as well as of gold, was not only distinctly recognized, but carefully protected by Congress.

But in 1873, by methods the integrity of which has been most severely assailed (but which it is not necessary to this discussion to particularize), an act of Congress was passed by which the coinage of silver virtually ceased to be free, and no more recognized as a money metal, and the question stated a moment ago, and now restated, is this:

Was it within the constitutional power of Congress to so enact?

There is a mistake which has been made by counsel. The act of 1873, by recognizing silver as a money metal, clearly and unequivocally authorized anybody having silver to take it to the mint for the purpose of having it coined into trade dollars, which were legal tender up to the amount of \$5. Therefore it is not correct, as stated by counsel in this brief, that after the passage of the act of 1873 Congress no more recognized silver as a money metal. The purpose failed for the want of skill in the executioner.

The brief proceeds:

In the light of this previous history, and of the then existing conditions and relations, the question is, what is meant by the language of the Constitution, "Congress shall have power to coin money, regulate the value thereof"?

Does it mean that Congress shall have power to ignore or destroy, as a money metal, either gold or silver, or does it mean that Congress shall have power to adopt standards and devices and manufacture money according to those standards and devices; or, in other words, to stamp pieces of metal, which by virtue of the certificate stamped on the piece, certifying to its weight and fineness, pass current as money in the nation?

They then proceed with the following legal proposition:

1. Constitutions are granted, not made, written or unwritten.

And cited Cooley's Limitations, from which I will read a short extract:

What is a constitution, and what are its objects? It is easier to tell what it is not than what it is. It is not the beginning of a community, nor the origin of private rights; it is not the fountain of law, nor the incipient state of government; it is not the cause, but consequence, of personal and political freedom: it grants no rights to the people, but is the creature of their power, the instrument of their convenience. Designed for their protection in the enjoyment of the rights and powers which they possessed before the constitution was made, it is but the framework of the political government, and necessarily based upon the preëxisting condition of laws, rights, habits, and modes of thought. There is nothing primitive in it. It is all derived from a known source. It presupposes an organized society,

law, order, property, personal freedom, a love of political liberty, and enough of cultivated intelligence to know how to guard it against the encroachments of tyranny. A written constitution is in every instance a limitation upon the powers of government in the hands of agents; for there never was a written republican constitution which delegated to functionaries all the latent powers which lie dormant in every nation, and are boundless in extent and incapable of definition.

Citing the case of *Lee vs. The State* (26 Arkansas, pages 265-266), Judge Cooley brings this authority in support of his attitude:

Written constitutions sanctify and confirm great principles, but the latter are prior in existence to the former.

In *Sidney on Government* (chapter 3, sections 27 and 33), this quotation is found:

If this charter of State government which we call a constitution were all there was of constitutional command; if the usages, the customs, the maxims, that have sprung from the habits of life, modes of thought, methods of trying facts by the neighborhood, and mutual responsibility in neighborhood interests; the precepts that have come to us from the revolutions which overturned tyrannies; the sentiments of manly independence and self-control which impelled our ancestors to summon the local community to redress local evils, instead of relying upon king or legislature at a distance to do so—if a recognition of all these were to be stricken from the body of our constitutional law, a lifeless skeleton might remain, but the living spirit that which gives it force and attraction, which makes it valuable, and draws to it the affections of the people; that which distinguishes it from the numberless constitutions, so-called, which in Europe, have been set up and thrown down within the last hundred years, many of which in their expressions, seemed equally fair and to possess equal promise with ours, and have only been wanting in the support and vitality which these alone can give—this living and breathing spirit which supplies the interpretation of the words of the written charter would be utterly lost and gone. (*People vs. Hurlbut*, 24 Mich., 44-107.)

That is the law which pervades this whole country. It is the understanding that constitutions are made, not for the purpose of creating rights, but for the purpose of preserving and regulating the rights already in existence. The right to have money existed under the common law, under the statute law of Great Britain and under the laws of the Confederation at the time the Constitution was ordained. The right has been preserved to the people because it is not expressly granted to Congress; it is not prohibited to the people, but is placed in the category of their reserved rights. The right is reserved to the people to have silver and gold money and to have silver and gold coined into money under the special powers given to the Congress of the United States to coin it and regulate its value. You will see further on why that was done, according to the opinions of the great men who assisted in framing it.

2. A constitution must be interpreted in the light of the events and circumstances attending or surrounding its adoption.

I have dwelt sufficiently long upon that, and I will cite the cases from the Supreme Court of the United States in the printed argument upon which this principle is founded:

12 Pet., 657.

1 Story Cons., 405 and notes.

Warring vs. Clark, 5 Howard, 441.

Genessee Chief vs. Fitzhugh, 12 Howard, 443-456.

The Belfast, 12 Wall., 624.

The Magnolia, 20 How., 296; 11 Wall., 1; 20 Wall., 201; 110 U. S., 447.

3. If neutrality laws, for example, are not provided for in a constitution, yet they exist and are operative just as though provision therefor had been embraced therein because of their previous and contemporaneous existence.

4. No supposed or real necessity can add to a constitution, because it is a

grant of power, and the power is limited to what is expressed, or necessarily implied.

II.

At the time of the adoption of the Constitution, gold and silver were the recognized money metals, and free coinage of both was a recognized right of the people.

III

This being so, it never was a question whether they, or either of them should be coined without restriction. The only question was as to fixing the standard of coinage so as that the relative values should be the same.

IV.

The standard recognized was the Spanish milled dollar—that was the unit of money value—was so treated when the Constitution was adopted.

V.

There was then at the time of the adoption of the Constitution this condition existing:

Gold and silver coins constituted money. The dollar was the unit of money value. The Spanish milled dollar represented that unit, to which all coinage and ideas of money were referable. Both of these kinds of coin (silver and gold) were recognized as money and essential to the business of the country, and they did, both of them, constitute the money of the people who granted that Constitution.

The equality of the silver and gold coins was preserved by changes in the matter of alloy, the Spanish milled dollar being the standard, it being, in the language of Mr. Jefferson, in common use by the people throughout the entire country, and there was no restriction upon the amount or quantity of coinage of either silver or gold.

VI.

These were the conditions existing at the time the Constitution was adopted, and it may be safely said that no one ever dreamed when it was adopted that the people were granting away the right to have money made of either of these metals, or were granting to Congress the power to deprive them of either. Nothing can be found in all the debates and writings of that period that in the most remote way indicates that anything of the kind was thought of by anybody, but on the contrary every expression from every source is a clear recognition that the people were to have, as they then and theretofore had had, the right to the unrestricted use of these metals as money—the free and unlimited coinage of them as money. The right to make regulations in respect of coinage such as would keep the value of the one the same as the value of the other, so that there should be in fact but one circulating medium, composed of silver and gold coins, was one that was recognized, and in all the discussions of the period that was the subject of consideration, but never was it intimated that either could be abandoned or any restriction or limitation be placed on the coinage of either.

VII.

This was the condition when it was written in the Constitution, that "Congress shall have power to coin money." A nation was being created composed of States. The common welfare demanded a circulating medium, common to all—to the people of the nation whose interests were to be thus united—and, therefore, the power to coin money was granted to Congress.

But to coin it out of what? Whatever Congress might see fit to coin it out of?

Iron? Steel? To what is that language referable? What did the people have in mind when that phrase was adopted?

It was the money of the common law, which was the law here when the Constitution was adopted, and it is a familiar principle that interpretation is to be in the light of the law. This common-law money, silver and gold, the people enjoyed when they granted the Constitution, and when they authorized Congress to coin money it was from those metals.

Lord Coke says: "No subject can be enforced to take in buying or selling or other payment any money made but of lawful metal; that is, silver or gold. The money of England is the treasure of England, and nothing is treasure trove but gold and silver. And this is the reason that the law does give to the king mines of gold and silver, thereof to make money, and not any other metal which a subject may have, because thereof money can not be made."

It seems impossible to doubt that it was silver and gold, just what through centuries had been used for that purpose and was then being used, *pari*

passu, and without limit as to either. Congress might possibly add other metals, but it could not dispense with these or either of them.

"And to regulate the value thereof." To what is that referable?

Obviously to that condition, recognized of necessity, which required that those coins should be made upon such a standard as to each that the one should be the equal or equivalent of the other, thus producing a circulating medium composed of both.

If the Constitution is to be read in the light of existing surroundings and conditions, as it is, and if it is not to be read so as to take away rights that then existed, unless so expressed or clearly so implied, as it is not, then it follows that the people did not grant away the right to have both of these metals coined and without restriction of any kind as to either, save only the right of Congress to regulate the value of such coinage.

On this theory the Government acted until 1873. For eighty years these metals were thus unrestrictedly coined.

Whoever had silver or gold could carry it to the mints and have it converted into money; and it is not too strong an expression to say that the people were shocked when they discovered that an act had been passed demonetizing one of these metals. It was to them literally a discovery. They had no notice that such a thing was in contemplation. No opportunity was afforded to the people to consider it; it stole its way out of a committee room and through Congress without any consideration of its constitutionality.

It is nothing to the point to argue any considerations of fancied or real commercial necessity. If the power did not exist, no commercial necessity could create the power. It could only be created by the people who made the Constitution.

I will take occasion here, Mr. President, to remark that I consider it as being one of the powers of government essential perhaps to the Government itself, to its own existence as a government, and to its perpetuity, to place an upper limit upon the right to produce money. For instance, if, when the right is given to produce money, it should turn out that one of the mountains or hills of Colorado were capable of producing as much gold ten times over as had previously existed in the world up to the present date—that is perhaps an impossible conception, but at the same time it serves as an illustration—it would become the duty of the Government of the United States in whose domain this gold was produced, perhaps, to limit and regulate the coinage of that gold by the amount of its sister, silver, which might be produced, so as to preserve the parity, not merely in dollars, as compared with the dollar of gold or silver, but also to preserve the parity in the volume. I conceive that that is a proper purpose of government, and therefore do not concur in the idea which is presented here in this brief, if it is presented—I am not certain that it is—that Congress could have no control whatever of the amount of silver to be coined.

I will take occasion to say, further, that in the present attitude of the silver question and the gold question in the world, and in the presence of the fact that we have a country which produces a very large amount of silver—to speak of nothing else—the duty of the Government is to secure to the American people the most beneficial use that can be made of that money in respect of that portion of it, at least, which is put into coinage; and in order to do that, the mints ought to be opened, it seems to me, hereafter only to the product of American mines, and for the mintage of those metals which had never been previously coined and had never previously been used in the arts. That would be carrying out that idea with which we are all in love when it can be carried out without injustice to some other American industry, of giving to every American citizen who participates in any industry whatsoever, of manufactures or otherwise,

the benefit of a home market, and never to deny it to him, unless under circumstances where the grant of it to him is a monopoly pure and simple, and not an act of justice to the Government and his fellow citizens.

As to the coinage of silver, I would, for the present, confine it in our own mints to American products, and I would do it upon that principle. I would do it, also, upon the doctrine of self-defense.

Much has been said here, vainly as I think, unwisely as I believe, in respect of the dump that would be made upon us if we should open our mints to the free coinage of silver. It is said that it would come from all parts of the world and dump itself upon us in extraordinary quantities. I never believed a word of it. I never had the slightest apprehension of it. I have not now. But there are Senators here, and many other people in the United States, who fear it; and it is my duty as a legislator, if they fear it, to provide against it.

How would I provide against it? I should adopt the suggestion of the honorable Senator from Pennsylvania [Mr. CAMERON], which I think is a remarkably wise one. I should put a prohibitory tariff upon the introduction into this country of silver as money, or as bullion, or as decorative art—all of it. I would save that for our people, and if the other nations of the earth want to degrade silver money, I would say that we should benefit our home industry without caring a fig what impression it made in Great Britain or elsewhere. If they want to degrade silver, I should say it is the duty of Congress to protect and preserve it, to stand by it and see that it has a fair living chance in every emergency and under all circumstances.

So I would confine the minting of silver to the American production hereafter mined. Then I would say to these men, "Go on and dig your silver; you can not well produce too much of it for the benefit of the people of this country; it will pay the debts of many people; the banks may not need it; they may not desire it; the delicate fingers and hands of their dapper little clerks may be too weak to handle the shekels in bags of sufficient magnitude to make them respectable; but the people will take the coin and carry it home, out into the mountains, out into the highways and byways, into the nooks and corners of this great and yet almost unexplored land, this land of immense possibilities, and they will use it in the homely way of paying neighborhood debts; they will use it where it will not run away to seek concealment in a bank, and where the greed of the usurer does not want it, because he may have something else better adapted for his purposes."

Never was there anything so comforting to a poor man, so sustaining to his energies, so gratifying to his wants, as a good piece of sound silver money. He prefers it in half dollars, and I would prefer to coin it in halves and quarters, because the people can use it with more convenience, for the reason that it is less likely to travel off into the hands of speculators and bankers. It is a great benefaction to such communities as I have been describing, for they, after all, are the little springs which form the little rivulets which run into the larger lakes and rivers, which in turn form the mighty ocean into which they empty their treasures. They are to be encouraged and rendered pros-

perous at least by the withdrawal of every obstruction which it is competent for us to remove. God knows that we ought to do that much for them. They work for us day and night.

There is not a silver dollar or a gold dollar in existence that has not been dug out of the ground by the toil of some human being. Where are the millions who thus have toiled their lives away to furnish this great international boon? What is thought of them after they have yielded up their labors into the hands of their employers, or into the coinage of the mint, and thrown it into the treasuries of the earth? Nothing. They perish as the grass. They are thought of no more. Those who survive and their children who follow the same pursuit, delving down into the dark, mysterious depths of the earth, in dank caverns, where life is exposed and where the light of the sun is shut out by day—these men, thought of no more, are the men who have contributed these articles of gold and silver to the wealth of the world, about which doctrinaires are making great disputes, as if they created it all.

So it is we toil and speculate and practice upon and use to our advantage, without discrimination in favor of any of these toiling people of the earth, what they produce, and fancy that we are saving them from starvation by giving them what we call honest dollars. It is a mockery of justice, of the laws of God and nature, that we should neglect these people; and not only that, but throw obstructions in their way which they find it impossible to overcome—a mockery of the God of justice upon His mighty throne, when we are forgetful of them.

[At this point the honorable Senator yielded to Mr. HARRIS.]

Mr. MORGAN. I will proceed further with the examination of the brief from which I have been reading:

The general system of money and coinage which was familiar to the people and statesmen of this country when the Constitution was adopted was intended and referred to when it was declared in that instrument that the Congress shall have power to coin money, regulate the value thereof.

We here insert, in addition to foregoing citations, enough from the current discussion of that period to substantiate what has been above said:

"Wherever, therefore, a question arises concerning the constitutionality of a particular power, the first question is whether the power be expressed. If it be not Congress can not exercise it.

"In the United States the people, not the Government, possess the absolute sovereignty; the Legislature (Congress), no less than the Executive, is under limitation of power: hence, in the United States the great and essential rights of the people are secured against legislative as well as executive ambition. They are secured, not by laws paramount to prerogative, but by constitutions paramount to laws. (Madison's Report on Virginia Resolutions, Elliot's Debates, volume 4, pages 567, 568, 569.)

In No. 42 of the Federalist, page 193, Mr. Madison says on page 197:

"All that need be remarked on the power to coin money, regulate the value thereof and of foreign coins, is that by providing for the last case (regulating the value of foreign coins) the Constitution has supplied a material omission in the Articles of Confederation. The authority of the existing Congress is restrained to the regulation of coin struck by their own authority or that of the respective States. It must be seen at once that the proposed uniformity in the value of the current coin might be destroyed by subjecting that of foreign coin to the different regulations of the different States."

Mr. Madison refers to this subject again in the Federalist, No. 44, page 206, upon the inhibition of the States, section 10, Article I, of the Constitution.

"No State shall coin money, make anything but gold and silver coin a tender in payment of debts," in the following language:

"The right of coining money, which is here taken from the States, was left in their hands by the confederation as a concurrent right with that of Congress, under an exception in favor of the exclusive right of Congress to regulate the alloy and value. In this instance, also, the new provision is an improvement on the old. Whilst the alloy and value depended on the gen-

eral authority, a right of coinage in the particular States could have no other effect than to multiply expensive mints and diversify the forms and weights of the circulating pieces. The latter inconvenience defeats one purpose for which the power was originally submitted to the Federal head, and as far as the former might prevent an inconvenient remittance of gold and silver to the central mint for recoinage, the end can be as well attained by local mints established under the general authority."

As to the purpose sought by the changes made in the Constitution from what the same powers were, by or under the Articles of Confederation, Mr. Madison says, *Federalist No. 45*, that—

"The powers delegated by the proposed Constitution are few and defined. * * * The proposed change does not enlarge these powers; it only substitutes a more effectual mode of administering them."

In the international monetary conference, 1878, State Department Document No. 58, Forty-fifth Congress, third session, will be found the following:

"The Continental Congress resolved that a committee of seven be appointed to examine and ascertain the value of the several species of gold and silver coin current in these colonies, and the proportion they ought to bear to Spanish milled dollars." April 19, 1876, page 449.

Report of committee, pages 421, 422. The Spanish milled dollar, \$1.

Robert Morris, page 430.

In order that a coin may be perfectly intelligible to the whole people, it must have some affinity to the former currency.

The various coins which have circulated in America have undergone different changes in their value, so that there is hardly any which can be considered as a general standard, unless it be Spanish dollars. Here follow citations of the commissioners' report.

[Page 481.] A dollar contains, by the best assay which I have been able to get, about 373 grains fine silver.

Mr. Jefferson, on a money unit (page 437), says that the unit and its parts or divisions be so nearly of the value of some of the known coins that they may be of easy adoption for the people. The Spanish dollar seems to fulfill all these conditions.

[439.] The unit or dollar is a known coin, etc.

It is difficult to familiarize a new coin to the people. It is more difficult to familiarize them to a new coin with an old name. Happily, the dollar is familiar to them all.

[Page 441.] The financier states the old dollar as containing 376 grains of fine silver and the new 365 grains. If the dollar circulating among us be of every date equally, we should examine the quantity of pure metal in each, and from them form an average for our unit. This is a work proper to be committed to mathematicians as well as merchants, and which should be decided on actual and accurate experiment.

[Page 442.] The committee of the States, however, during the recess, will have time to digest it thoroughly if Congress will fix some general principle for their government.

Suppose they be instructed to appoint proper persons to assay and examine with the utmost accuracy practicable the Spanish milled dollars of different dates in circulation with us.

That the money unit of these States shall be equal in value to a Spanish milled dollar containing so much fine silver as the assay before directed shall show to be contained on an average in dollars of the several dates circulating with us.

[Page 446.] Report of committee.

Another plan has been offered which proposes that the money be one dollar. * * *

In favor of this plan it is urged that a dollar, the proposed unit, has long been in general use; its value is familiar. This accords with the national mode of keeping accounts, and may in time produce the happy effect of uniformity in counting money throughout the Union.

This report recommends the dollar unit in silver.

[Page 456.] Hamilton's report on mints and coinage.

A prerequisite to determining with propriety what ought to be the money unit of the United States, is to endeavor to form as accurate an idea as the nature of the case will admit of what it actually is.

But if the dollar should, notwithstanding, be supposed to have the best title to being considered as the present unit in the coins, it would remain to determine what kind of dollar ought to be understood; or, in other words, what precise quantity of fine silver. * * *

[Page 457.] The actual dollar at the time of contracting is the only one which can be supposed to have been intended. * * * The actual dollar in common circulation has evidently a much better claim to be regarded as the actual money unit.

[Page 461.] To annul the use of either of the metals as money is to abridge the quantity of circulating medium, and is liable to all the objections which arise from a comparison of the benefits of a full, with the evils of a scanty, circulation.

[Page 468.] But the quantity of gold and silver in the national coins corresponding with a given sum, can not be made less than heretofore without disturbing the balance of intrinsic value, and make every acre of land, as well as every bushel of wheat, of less worth than in time past.

Page [478.] "The conclusion to be drawn from the observations which have been made on the subject is this: That the unit in the coins of the United States ought to correspond with 24 grains and three-fourths of a grain of pure gold, and with 371 grains and one-fourth of a grain of pure silver, each answering to a dollar in the money of account. The former is exactly agreeable to the present value of gold, and the latter is within a small fraction of the mean of the two last emissions of dollars—the only ones which are now found in common circulation, and of which the newest is in the greatest abundance. The alloy in each case to be one-twelfth of the total weight, which will make the unit 27 grains of standard gold, and 405 grains of standard silver.

"Each of these, it has been remarked, will answer to a dollar in the money of account. It is conceived that nothing better can be done in relation to this than to pursue the track marked out by the resolution of the 8th of August, 1786. This has been approved abroad, as well as at home, and it is certain that nothing can be more certain or convenient than the decimal subdivisions. There is every reason to expect that the method will speedily grow into general use, when it shall be seconded by corresponding coins. On this plan the unit in the money of account will continue to be, as established by that resolution, a dollar and its multiples, dimes, cents, and mills, or tenths, hundredths, and thousandths."

This is an extract from a letter of Mr. Jefferson to Mr. Hamilton, written in February, 1792.

Mr. ALLISON. Will the Senator allow me to make a suggestion there?

Mr. MORGAN. Yes.

Mr. ALLISON. The resolution of 1786, alluded to in that letter, was a resolution for a dollar containing 375 grains and a fraction of pure silver, and yet the dollar of 1792 contained 371½ grains. Therefore, just what Mr. Jefferson deprecated, in a sense, was done by the act of 1792; that is, a certain number of grains were taken out of the dollar provided for in 1786.

Mr. MORGAN. But then the subject underwent a much more careful consideration on the adoption of the Constitution than it had done under the Articles of Confederation.

Mr. ALLISON. So I understand.

Mr. MORGAN. They had arrived at a more accurate statement as to what ought to be the actual value of the unit of account.

Mr. ALLISON. So I agree. I was merely calling attention to it.

Mr. MORGAN. I do not think that any feature of our legislation, not even that of establishing the measurements and weights, was attended with more accurate and careful and learned scrutiny than that which resulted in the adoption of 371½ grains as the unit called the dollar, whether of gold or whether of silver; it made no difference. The first dollar of gold or of silver was a dollar which was necessarily reckoned in silver, because it was 371½ grains, and that came, as I stated in the early part of my remarks, from the fact that a thousand Spanish milled dollars were taken, and after having, as they say, cleaned them with acid, etc., and melted them down and got out all foreign matter, they found, after a division of the mass into a thousand parts, that it made 371½ grains of fine silver—perhaps not pure

silver, but fine silver. Mr. Jefferson said to Mr. Hamilton in 1792:

[Page 496.] I concur with you in thinking that the unit must stand on both metals. * * *

Somebody in this late day of superhuman wisdom can find a reason for a change from both metals to one; but that change is not wise, neither is it safe, neither is it according to the traditions of our country, neither is it in conformity with the will of the people as expressed in the adoption of that Constitution, that it was money—money consisting of the dollar as the unit, and in respect of which dollar, which had its first existence only in legal contemplation, all the money shall be measured. That was the safe ground.

I quote now from John Quincy Adams in 1817:

With respect to the dollar, it must be admitted by all the world that there is great uncertainty in the meaning of the term, and therefore all the world will have justified Congress for the first act of removing the uncertainty by declaring what they understand by the term; but the uncertainty once removed exists no longer, and I very much doubt a right now to change the value, and especially to lessen it.

[P. 490.] There are two precious metals, gold and silver, which by the consent of all commercial nations are such articles; and there is no other.

[P. 491.] The dollar of the United States is at once a money of account and a specific silver coin.

There can be no doubt that the coin that was regarded as the unit was the Spanish milled dollar. It was the standard coin that the people knew as money, and that was in mind when the Constitution was adopted; no express power was given to dispense with either gold or silver.

In this connection we venture to quote from a letter of ex-Attorney-General Plerrepoint, which has heretofore been printed, dated September 24, 1850. He uses this language:

"It is very certain that under the Constitution silver and gold are both equally money metals. Congress have no power to demonetize gold or silver. The deceptive and treacherous act of February 12, 1873, deceived even Gen. Grant, who signed it, and about which Gen. Grant, when I was in his Cabinet, spoke to me about the fraud and deception practiced upon him. Nothing is more certain than that an act passed to banish gold from the mint would be void as unconstitutional, and that the act of 1873 to demonetize silver was certainly void under the Constitution."

That act did not banish it from the mint; that act only changed the standard silver dollar of 412½ grains to the trade dollar of 420 grains.

If Congress had the power to demonetize silver, it had the power equally gold and silver both.

But the further question arises, since there was no express power to dispense with either of these metals, is there any such implied power?

Is the power to degrade silver implied as being appropriate to carry out other powers granted—such as the power to borrow money, emit bills of credit, etc.

To maintain this as an implied power, some express power must be found for the execution of which it is appropriate to demonetize silver.

Implied powers depend on means that are inherent in the nature of things—the difficulty of anticipating means that will be requisite to carry out a general intent, the impracticability of setting them forth if foreseen. Besides such an enumeration being tedious, it is dangerous, as affording room for the argument that omission is equivalent to exclusion. A general power, then, may be said to consist of the particular powers that are essential to its execution, into which it may be analytically resolved and that are consequently denoted when it (the general power) is named. This proposition, it is submitted, will stand the severest test. Then what general or express power in the Constitution embraces and carries with it the power to degrade silver? On the execution of what general or express power in the Constitution is the degrading of silver essential? What general or express power in the Constitution, when named, denotes the power to degrade silver? A negative answer must be made to each of these questions. In the nature of things, and by all the authorities, implied powers are most strictly construed, and to that extent it is forbidden to raise an implied

power upon an implied power. There would be nothing of the Constitution as a grant of power left if this could be done.

All the decisions of the court upon gold and silver, and the powers of Congress over the currency, proceed upon the very idea that silver and gold stand as the money metals of the country. The latest legal-tender case (110 United States, 450) rests for support upon the fact, in part, "of the inadequacy of the supply of gold and silver coin to furnish the currency needed," etc. So far, then, from finding any general or express power in the Constitution making the degradation of silver essential to its execution, we find absolutely the reverse to be the case. And we must not forget that regulating a subject-matter can not go to the extent of destroying one of the component parts, one of the elements, of that subject-matter. And we must not forget, too, that each and all parts of the Constitution must live and speak: one is as potent as the other, and one can not be overridden or choked to death by another. And every attempt to bring the power to degrade silver out of any general or express power or a naturally implied power from these will be a flat failure.

COINS OF SILVER AND COINS OF GOLD A CONSTITUTIONAL CURRENCY.

The Supreme Court in the case of *United States vs. Marigold*, 9 Howard, 567, declare that "such coins or pieces are a constitutional currency," as to which fact we submit there can be no possible difference of opinion; therefore it necessarily follows that Congress can not deprive the people of the use of silver coin to any extent that they may desire, the sovereignty residing in them. Nor can Congress by enactment or the Treasury Department by construction lawfully take, in part or in whole, from the mass of the people the right to use coins of lawful weight and fineness, fabricated at the mint, and of either metal, to the full extent of their ability to acquire the same, as the reward of their industry. No power has been given to Congress other than to coin—coins of silver and coins of gold being a constitutional currency, and without limitation an act of Congress which in any way impairs that currency is without authority—is usurpation—unconstitutional and void. "Every clause in the Constitution which bears upon the subject of money, every early statute of Congress which interprets the meaning of these clauses, every historic recollection which refers to them, go hand in hand in giving to that instrument the meaning which this proposition ascribes to it.

Legislative enactment came quickly to the aid of constitutional intention and historic recollection. The fifth statute passed at the first session of the first Congress that ever sat upon the present Constitution was full and explicit on this head.

It defines the kind of money which the Federal Treasury should receive. The enactments of the statute are remarkable for their brevity and comprehension as well as for their clear interpretation of the Constitution, and deserve to be repeated and remembered.

They are: "That the fees and duties payable to the Federal Government shall be received in gold and silver coin only; the gold coins of France, Spain, Portugal, and England and all other gold coins of equal fineness, at 89 cents for every penny weight; the Mexican dollar at 100 cents; the crown of France at 111 cents, and all other silver coins of equal fineness at 111 cents per ounce."

This statute was passed the 30th day of July, 1789, just one month after Congress had commenced the work of legislation. (Benton's *Thirty Years' View*, volume 1, chapter 105, page 436.)

The Congress that passed this act, together with the act of April, 1792, which established the Mint, was composed in part of the men who framed the Constitution and who by these acts interpreted and construed it with full knowledge of the true meaning and intent of that instrument, have fixed the meaning, defined the powers, recognized the limitations as they were understood by the framers of the Constitution and accepted by the people when they adopted it.

CAN THE ACT OF 1793 BE HELD TO BE CONSTITUTIONAL BY IMPLICATION.

For the court to so hold the implication must be plain and obvious, not to be sought through forced explanations, or metaphysical reasonings, ingenious discrimination or dubious inference. Its necessity must be absolute, and its adaptation to the conceded purpose unquestionable. The implication must not be reached by neat and skillful manipulation of words, or by subtle methods of interpretation without regard to the substantial meaning and purpose of the words used in the grant of power.

The act or law under the implied power must consist with the letter and spirit of the Constitution, must be such as to enable the Government to discharge the duty imposed upon it "to coin money," not to coin at the discretion of Congress, but to coin at the demand of the people. The power

delegated being a power to create, to preserve, negatives an implication of a power to impair, suspend, or limit the coinage.

The striking by the mint of token pieces in large or small quantities does not in any sense relieve the Government or Congress of its duty "to coin money." Tokens are not money—do not pretend to be—even though endowed with a statutory legal tender.

Tokens are a government promise to pay money; they are an inferior currency which the Government is bound to redeem in money. And the only money authorized by the Constitution is full weight standard metal coins of silver and of gold, so declared by contemporaneous construction, and authoritative judicial decisions.

United States *vs.* Marigold, 9th Howard, 567.

Bronson *vs.* Rhodes, 7th Wallace, 247.

McClain *vs.* Nesbit, 2 Nott & McCord, 519.

State Bank *vs.* Crease, 6 Arkansas Reports, 1st English, 295.

If this proposition seems to contravene the legal-tender decisions in 12th Wallace, we state that the Treasury note or greenback does not upon its face pretend to be money. It is specifically a promise to pay money. "The United States will pay the bearer —— dollars;" that is, pay constitutional dollars, therefore there is no variance or conflict between our construction of the meaning of money and that given in the judicial decision here referred to.

If it be said that Congress has an implied power to issue token coins, the exercise of that implied power if Congress has it does not in any sense comply with the duty to coin money, and to coin it of both constitutional money metals, silver and gold, for the reason that the Government is bound to redeem all tokens in coin in money, and nothing is constitutional money unless endowed with all the rights of free and unlimited coinage. There can be no lawful discrimination between the two metals; they must stand equal before the law, equal in rights, powers, and opportunities.

To hold that by coining one metal and striking tokens of the other, the duty to coin money has been fully discharged, would be a plain perversion of the natural sense and accepted use of words, wholly at variance with the purpose of the Constitution, for the reason that no discretion has been vested in the National Legislature, and for the further reason that by the same inference, or implication, all coinage of money could be suspended at the will of Congress, a construction so forced and unnatural, and an implication so clearly illogical, unnecessary, and mischievous, that the legal mind can not entertain or support it.

For one hundred and ten years, as Englishmen, the American colonists, under the common law and by the statute law of England, had and enjoyed the right of free and unlimited coinage of silver.

Under the articles of confederation and resolves of Congress that right was recognized and declared.

Under the Constitution of the United States that right was exercised and enjoyed for a period of eighty-one years.

For that period no claim had been made by either the legislative, executive, or ministerial departments of the Government, that the acts of 1792 and 1837 did not properly, lawfully, and rightly define the rights of the people, and the duty of Congress in relation to the Mint and its use by the people; nor has any act ever passed Congress, by which, after full debate and explanation of the purpose of it, that right has been in the slightest degree impaired. In reason, in justice, and in law that right is now what it was from 1792 to 1873; that right is within the letter of the Constitution and within its spirit also. It is enough to say, that the particular power assumed by Congress in the act of 1873 was not in the mind of the convention when the article was framed, nor in the minds of the American people when they adopted it.

If the act of Congress, by which silver was demonetized in 1873, can be made valid by construction and implication, then are "written constitutions but cobweb chains to the strong arm of legislation," especially when controlled "by the corrupting force of a disciplined majority."

"What does it signify that men should have a written constitution, containing unequivocal provisions and limitations, if those limitations may be exceeded by the very power they were intended to restrain."

There is, therefore, no power, express or implied, to demonetize silver.

LEGAL-TENDER CASES.

It may be urged that this contention is against the doctrine laid down in the legal-tender cases. 12 Wall., 457.

But it is most respectfully submitted that such is not the fact. The question here being considered was not before the court.

The only question, then, under consideration was as to the power to make the notes of the Government a legal tender. It is true, that in the course of the several opinions frequent allusion was made to the provision granting

the power to coin money and regulate its value, but all that is said in reference to that provision is by way of argument or illustration alone.

But throughout all these opinions silver and gold coins are recognized as being the money of the world, that they had been for centuries before the adoption of our Constitution, and that their relations to each other as to value were preserved by the methods we have hereinbefore adverted to.

The history of legislation by the Continental Congress, and by Congress after the Constitution is fully set forth in the dissenting opinion by Mr. Justice Clifford, but it is not necessary to repeat it here. It is sufficient to say that it was not decided that stamped paper was money, nor was it decided that Congress, under the power "to coin money," could issue paper as money, but that under other powers granted by the Constitution, its acceptance in lieu of money could be compelled, or, in other words, as expressed in *Julliard vs. Greenman*, Congress "can make a paper promise to pay a legal tender."

There is no intimation that anything could constitute money but gold and silver coins, except the *obiter* of Mr. Justice Strong delivering the opinion of the majority, in which he says: "The Constitution does not ordain what metals may be coined, * * * and it seems to have been left to Congress to determine alike what metal should be coined, its purity, etc."

The context shows that this is only said *arguendo*, and when examined has no force against our contention. It is true that the Constitution does not specify "what metals may be coined." It does not name any metals, and that is probably what the expression used by the court means. It "seems," says the court, to have been left to Congress to determine what metal shall be coined.

This, to say the most, is not a confident expression; it certainly is not an emphatic one, and we submit that since it was not a question in the case and is only an uncertain *obiter*, it is by no means controlling where the question is directly presented for the first time for adjudication.

THE NEXT QUESTION IS, IS THERE ANY STATUTE THAT AUTHORIZES THE COINAGE OF THIS BAR OF SILVER?

There may not be or there may be. I contend that there are statutes which authorize the coinage of the bar of silver presented here, and upon which a motion for a mandamus was founded; but suppose there is not, and suppose it is the constitutional right of these people to have that bar of silver coined, and that the only derelict in the case is Congress in not having provided proper machinery for its coinage. What, then, do you say to your consciences and to your country and to your countrymen in respect of the discharge of your duty under the Constitution of the United States? If there be doubt about this question, it is the duty of the Congress of the United States to remove that doubt, if the constitutional right exists, just as much as it would be to remove any doubt about the proper exercise of the writ of habeas corpus or the right of free speech or the right to defend one's self by bearing arms or any other right enumerated or not enumerated in the rights guaranteed to the people or reserved to them?

When we find a right neglected, which is a right according to the Constitution and under the law, when it is in harmony with the general welfare, when it does not iniquitously violate some moral principle couched in the frame of our Government, we must as honest legislators give the people the benefit of the powers they have intrusted into our hands, so that they may have the enjoyment of that right.

I am not here a robber to take the rights of the people away from them and trample them under my feet at the bidding of anybody. No man in office however high, no man surrounded with wealth however great, no monopolist, invested with power however supreme or extensive, no man, whatever his power may be, can either exonerate me from the discharge of my duty to

grant to the people all of their constitutional rights, nor can any man frown me into silence when I choose to plead for them.

This is an arena, Mr. President, in which I have the honor to be one of the ambassadors of a sovereign State, whose suffrage shall not be taken away from her without her consent, and where I have got, if I have got it anywhere in this world, the right of full and free speech, and though it may make the ears of charlatans sore to listen to the truth, though it may burn them to cinders when it is uttered, yet it is my duty here in the presence of God and this august assembly, and my duty to the State whose ambassadorial credentials I hold, that I shall stand here and defend the constitutional rights of my constituents, the citizens of Alabama, as long as, in my poor judgment, according to my conscience, I think defense is appropriate and requisite and necessary.

Nobody need be astonished at the sluggishness of the Senate or surprised at it, and suppose that, because I may think such people ought to have and have great influence, thereupon I will subordinate myself, like a cricket or a mouse, and run into a crack to conceal myself from the august presence of authority. No; the least man in Alabama, the poorest negro in Alabama, is entitled to his constitutional rights at my hands as much as the President of the United States, and he shall have them if I know how to give them to him.

In the brief it is said:

We have hereinbefore given a synopsis of all the acts of Congress touching this subject.

That is the subject of the right to have this bar coined into money.

It will be seen that section 14 of the act of 1837 provides that gold and silver bullion brought to the mint for coinage shall be received and coined by the proper officers for the benefit of the depositor, provided that it shall be lawful to refuse at the mint any deposit of less value than \$100.

The plain meaning of this is that whenever any person shall present at the mint silver bullion of the value of \$100 it shall be coined for him.

The act of February 28, 1878 (20 Stat., 25, sec. 4,) provides "that there shall be coined at the several mints * * * silver dollars of the weight of 412½ grains troy of standard silver, as provided in the act of January 18, 1837. All acts inconsistent with this act are repealed.

It repeals the act of 1873, because that act authorized the coining of only trade dollars of the weight of 420 grains, and that act is wholly inconsistent with the act of 1878, which authorized coinage of dollars of 412½ grains.

The only question there can possibly be is as to what is the effect of the language, "as provided in the act of January 18, 1837." Does that refer only to the weight and fineness of the metal, or does it embrace the other provision that the coinage shall be for whomsoever shall deposit bullion to the amount of \$100?

This is a question of construction.

The counsel might have added, in that case, in the District supreme court, that it hardly admits of construction, because that act is expressly revived by the Bland act as an act, not as a part of an act or section of an act or the part of an act bearing upon a particular subject, but it is revived as an act, and I call attention again to what I said a while ago, that besides that part of it which was recalled into life and quickened again by the act of 1878, called the Bland act, all the balance of it, every provision in it, had been enacted in the act of 1873 and carried into the Revised Statutes. So, when Mr. BLAND, or whoever it was, introduced the provision for bringing back into vitality the act of

1837, nothing remained for the hand of restorative legislation but the silver dollar and its attendant attributes and conditions and circumstances, and the Bland act picked up and put back into the statutes the omitted provisions, including the right to bring silver to the mint for coinage, which had never been changed, altered, or touched.

Mr. MORGAN. The brief proceeds:

The act of 1837 fixes the standard of coinage at 412½ grains, and provides that such coinage shall be made for any one who shall deposit bullion to the amount of \$100.

The act of 1878 provides that there shall be coined silver dollars of the weight of 412½ grains standard silver, as provided in the act of 1837. What was provided by the act of 1837 as to coinage? The answer is plain from the act—whenever \$100 worth of bullion is presented it shall be coined—so that by the plain letter of this law, whoever presents \$100 worth of bullion is entitled of right to have it coined under the act of 1878. The act further provides that the Secretary of the Treasury shall purchase not less than \$2,000,000 per month of silver bullion, and cause it to be coined into such dollars.

Without this the Secretary had no power to purchase bullion and have it coined. There is no phrase or word limiting the coinage to such bullion as the Secretary may purchase. The language embraces not only the Secretary with his purchases, but all others owning bullion. If any other interpretation is to be given, it must be found outside the language used by Congress.

But Congress knew what language was being used and its force, and our contention is that this legislation recreated free coinage, and this is made all the stronger when considered in the light of the fact that it is in harmony with what the people enjoyed when the Constitution was by them granted, viz: the right to unrestricted coinage of both metals, which right they did not grant away by any express words, nor, as we insist, by any implication.

It is the coinage act of 1873 as amended by subsequent acts of Congress from which Treasury Department and mint officials derive their authority. Section 13 of that act clearly sets out the proportions of fine metal and of alloy which shall constitute the standard metal for coinage purposes. Section 18 of said act is also full and complete relative to the superscriptions and devices which shall be put upon the several coins to be manufactured at the mint. It is in this section alone that authority is found for the words "In God we trust," no such legend being found in the act of 1837. Therefore, by proper construction and fair inference all the authority for such devices and superscriptions as appear upon the dollar referred to in the act of 1878 are drawn from the act of 1873. None necessarily from the act of 1837.

"There shall be coined," not permissive, but mandatory, "silver dollars of the weight of 412½ grains troy, standard silver." Explicit, precise, as to the weight of standard metal and refers to the act of February 12, 1873, for what that standard metal should contain, "as provided in the act of January 18, 1837;" that is, free, unlimited, for the use and benefit of the depositors, in accordance with the terms of the fourteenth section of that act.

The purpose of the act of 1878 is not to limit the coinage to a certain amount or number of pieces, as there is no express or implied limitation in any of its sections or provisions. It is not to coin such dollars upon Government account only. No such limitation is expressed, either in the title or in the text of the act, and a legislative act, to be effective, must contain proper and necessary words to express what the legislature intended. Clearly, then, some purpose other than such as appears in the "coinage act of 1873" must be sought in the act of 1837 in order to give coherence and effect to the words as provided in the act of January 18, 1837.

Such is the natural interpretation of the language of this act, and it is in harmony with what transpired in Congress shortly previous to its passage. The act was passed by Congress on February 28, 1878.

On the 16th of January, 1878, the following joint resolution was passed by the Senate by a vote of 43 yeas to 22 nays:

That is the Stanley Matthews resolution, and when I get to this subject again—if, in the providence of God, the vote of the Senate is not taken before I can reach it under the sudden compulsion of cloture or something like that—I propose to take up that Stanley Matthews resolution which is a guide to the legislative intent that was couched in the act of 1878, and to give my Democratic and my Republican friends and brethren here

some reminder of what was the attitude of the Government and of the two Houses of Congress at that time in regard to the duty of the United States in respect of the payment of the debt.

On the 16th of January, 1878, the following joint resolution was passed by the Senate by a vote of 43 yeas to 22 nays:

"Be it resolved by the Senate (the House of Representatives concurring therein), That all the bonds of the United States issued or authorized to be issued under the said acts of Congress hereinbefore recited are payable, principal and interest, at the option of the Government of the United States, in silver dollars, of the coinage of the United States, containing 412½ grains each of standard silver, and that to restore to its coinage such silver coins as a legal tender in payment of said bonds, principal and interest, is not in violation of the public faith nor in derogation of the rights of the public creditor."

Most of the men who participated in that have gone above, and the great man who penned it, Stanley Matthews, has gone above, leaving with us a beautiful and chaste reputation as a man of immaculate honor and as an upright judge.

Our men in modern days, taught and educated in the schools of the national banks and around about Wall street, have got to be so pure, so upright, so good, so high-toned that they can not tolerate the reading of the resolution which Allen G. Thurman supported and which Stanley Matthews offered here. It is too gross for their tastes. These men have got refined out of all sense and reason, and certainly out of all acquaintance with the common people, and are no longer, it seems to me, disposed to have any respect for the common people.

There is a resolution which has the truth in it. It is an honest, just expression of an honest Senate and a House of Representatives, and it is not to be whistled down the wind by men who lend themselves to the grasp of the misers who clutch the throats of the common people.

Mr. MITCHELL of Oregon. Will the Senator please state by what majority that resolution passed?

Mr. MORGAN. It was passed by a vote of 43 yeas to 22 nays.

Mr. CULLOM. Will the Senator read the resolution?

Mr. MORGAN. Does the Senator wish me to read it again?

Mr. CULLOM. Excuse me. I did not hear the Senator read it.

Mr. GEORGE. I hope the Senator will read it again.

Mr. MORGAN. It is capital good reading; it is old-fashioned, though.

Mr. CULLOM. That suits me.

Mr. MORGAN. The resolution reads thus:

"Be it resolved by the Senate (the House of Representatives concurring therein), That all the bonds of the United States issued or authorized to be issued under the said acts of Congress hereinbefore recited are payable, principal and interest, at the option of the Government of the United States, in silver dollars, of the coinage of the United States, containing 412½ grains each of standard silver; and that to restore to its coinage such silver coins as a legal tender in payment of said bonds, principal and interest, is not in violation of the public faith nor in derogation of the rights of the public creditor."

Mr. WOLCOTT. What is the date of that resolution?

Mr. MORGAN. On the 29th of January, 1878, the same resolution passed the House of Representatives by a vote of 189 yeas to 79 nays. As I have said, the resolution passed the Senate on the 16th of January, 1878.

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

Mr. MORGAN. Certainly.

Mr. HAWLEY. Congress never passed an act directing that bonds should be paid in silver, and there never was one paid in silver during any Administration.

Mr. MORGAN. The resolution to which I refer was a concurrent resolution of the two Houses. It expressed the honest opinion of gentlemen, with which the President had not any right to interfere.

Mr. HAWLEY. That is as far as it went.

Mr. MORGAN. That is far enough. They knew they had a man in the Presidential chair who would veto it if they had made it a joint resolution; but they ought to have passed it as a joint resolution, and passed it over his veto, which they could have done.

Mr. HAWLEY. They had four years to do it under Mr. Cleveland.

Mr. MORGAN. But Mr. Cleveland was never the friend of such a law as that. He is too nearly the friend of the Senator from Connecticut in his views on the currency to be a friend of a law like that.

Mr. HAWLEY. There can not be a doubt that a man who has been three times nominated for the Presidency and twice elected represents his party.

Mr. MORGAN. I do not know that in this he represents his party. He seems to represent some of our party and some of yours, too. He has immense sweep to his representative capacity. Certainly he represents the Senator from Connecticut, who is following him along now in leading-strings.

Mr. HAWLEY. I am following him in one thing only.

Mr. MORGAN. Just one thing and only for a little while. I understand that; but after awhile you expect to cut loose from him and paddle your own canoe, to use a familiar expression. I understand that.

Mr. HAWLEY. Certainly.

Mr. MORGAN. I believe it was Gen. Bragg who said in the convention at St. Louis that he loved Grover Cleveland for the enemies he had made, including, of course, the Senator from Connecticut and all that class of eminent statesmen and politicians. Now, if the Democracy of the United States should conclude that they did not love him because of the friends he had made, it would be a bad day for Mr. Cleveland, would it not? I should be very sorry, but he is not making friends with the Senator from Connecticut; it is a temporary alliance under a brief coalition and for a particular purpose.

The remainder of the brief is as follows:

The adoption of this joint resolution has additional significance given to it by the fact that Congress had passed an act providing for the resumption of specie payments to take effect January 1, 1879, which act was approved by the President on the 14th of January, 1875.

When the President approved that act he sent to the Senate a special message, in which he makes use of the following language:

"In fact, to carry out the first section of the act, another mint becomes necessary. With the present facilities for coinage it would take a period probably beyond that fixed by the law (to wit, 1st of January, 1879) for final specie resumption to coin the silver necessary to transact the business of the country."

Here, it will be observed that, having in view the resumption of specie payments, which clearly meant not simply gold, but silver and gold, as the instruments with which to resume, the President expressly recognized silver

as money and as being necessary to transact the business of the country. With that in mind he admonished Congress that another mint would be essential to coin the silver necessary to transact the business of the country.

Now, it must be further remembered that coinage had been free up to 1873; it must be further remembered that, by the act of 1873, silver was demonetized and made a mere article of commerce, but the conversion of it into the forms provided by that act was also free. There was no restriction upon that coinage, to wit, the trade dollar of 420 grains.

Keeping all these facts in mind, and keeping in mind the date fixed for the resumption, and keeping in mind that the President, after resumption was resolved upon and provided for, brought the attention of Congress thus sharply to the necessity for providing additional facilities for coining the silver to be used in the transaction of the business of the country, we are enabled the more clearly to see what is the true interpretation of this act of 1878, because that act must be interpreted in the light of this previous action of Congress, as hereinbefore stated.

And so the result of it all is, that in 1873 silver had been demonetized. In 1875 Congress passed an act to resume specie payments, and in 1875, after the passage of said act, the President calls for these additional facilities to coin silver. In 1878 they go back to the coinage act of 1837, and require that silver shall be coined of 412½ grains of standard silver, without saying a word about the quantity that may be coined, but only additionally providing that the Secretary shall buy silver and have it coined.

The fair inference from this is that as the Government in the very next year was to resume specie payment, the coin necessary to discharge the business of the country, which was involved in the resumption of specie payment, might not be adequate if left to the owners of silver alone to present it to the Mint for coinage, and, therefore, as a wise precaution against any insufficiency from such cause the authority was given to the Secretary to purchase silver and have it coined, and thereby to that extent insure that there would be an adequate quantity for the purposes of the business of the country.

From this it seems to us that the act of 1878 restored silver as a money metal, unrestricted as to coinage.

It may be urged in answer to this that another construction has been acquiesced in, to wit, that there has been an acquiescence in the interpretation of this act, that coinage was restricted to such as was purchased by the Secretary.

It is true that in many cases it has been decided by the Supreme Court, that where a statute has received a construction by a Department whose duty it is to administer it, and such construction has been long acquiesced in, that that construction will prevail, but that rule does not apply where the language of the statute is clear and the construction obviously an erroneous one.

But, giving these decisions all the force to which they are entitled, there is still, we submit, no such a construction, and acquiescence therein in this case as brings it within the rule of these decisions. There had really been no construction of that statute by the Department, in fact, until this particular bar of silver was offered for coinage. No citizen had before made such an application, and the result therefore is that it can not be said that the Department has made any construction so as to constitute an interpretation of this law. And it is only the Department that can make such a construction as has any effect. The mere failure of any one to offer silver to be coined would not amount to a construction by the Department. Nor would any failure on the part of the people to present their bullion for coinage make a construction of this statute.

Therefore, we now have presented, for the first time since the act of 1878, the question whether by that act the coinage of silver was again made free and silver restored to its position as a money metal.

The act of 1878 makes silver a legal tender for everything, and Congress declares, as is seen by the resolution above quoted, that it was no violation of the honor or obligations of the Government to thus restore it.

It seems to us, therefore, to be impossible to reach any other conclusion than that the act of 1878 placed silver where it was under the act of 1837, in the position of a money metal, unrestricted as to the extent of its coinage, and to the place that it occupied at the time the Constitution was adopted, and to the place it had held for centuries before that time.

We conclude this brief with this summary.

It is not in the power of Congress to demonetize silver because:

1. Silver and gold coins alone were recognized as money by the common law.
2. Silver and gold stood on an equality under the acts of the English Parliament for a century before the adoption of our Constitution.

3. The people enjoyed the right of free coinage of both these metals. They were in universal use, neither having any preference over the other, both together constituting money.

4. When the Constitution was adopted the Spanish milled dollar was the money unit.

5. The people in granting to Congress the power to coin money, regulate the value thereof and of foreign coins, did not expressly or by implication grant away the right to either or both of these metals, but only granted the power to fix a standard, and to cast or stamp the coins.

6. This has immense support in the fact that Congress so dealt with this matter for eighty-one years.

7. The Constitution is to be interpreted in the light of conditions existing at the time of its adoption. Every right the people had then they have now, except granted away expressly or by necessary implication.

8. There is no express power granted by the Constitution, in the performance of which the demonetization of silver is or can be necessary. For these reasons we claim that the act of 1873, which demonetized silver, is unconstitutional, if that part of the act still remains.

II.

But we insist that it does not remain, but that this feature was repealed by the act of 1873.

1. That this appears from the language of the act.

2. That it further appears from the preceding legislation—the act of 1875 providing for the resumption of specie payment in 1879—the special message of the President asking that additional mint facilities be provided to coin silver sufficient to meet the needs of the country—followed by the joint resolution of Congress above quoted, and a month after that by the act of 1873. This legislation, etc., preceding clearly pointing to a restoration of silver to its former position, and sustaining our contention that the act of 1878 restored silver to free coinage.

The duty to receive and coin silver is a mere ministerial duty. It is not within the discretion of the Secretary, nor has he any right to exercise his judgment in regard to it; he has refused to perform this duty and, therefore, the writ prayed for should be granted.

Respectfully submitted.

SHELLABARGER & WILSON,
Counsel for Petitioners.

I have now concluded my argument on the reserved right of the people to have coin made of silver, and will not now take up another subject.