

[pg. 1]

Senate
Joint Resolution No. 1
State of New Jersey

Joint Resolution withdrawing the consent of this state to the proposed amendment to the Constitution of the United States, entitled Article XIV and rescinding the Joint Resolution approved September Eleventh Anno Domini Eighteen hundred and Sixty Six, whereby it was resolved that said proposed amendment was ratified by

[pg. 2]

the Legislature of this state.

The Legislature of the State of New Jersey having seriously and deliberately considered the present situation of the United States, do declare and make known: That the basis of all government is the consent of the governed; and all constitutions are contracts between the parties bound thereby; that until any proposition to alter the fundamental law, to which all the states have consented, has been ratified by such number of the States, as by the Federal Constitution, makes it binding upon all, any one that has

[pg.3]

assented is at liberty to withdraw that assent, and it becomes its duty to do so, when, upon mature consideration, such withdrawal seems to be necessary to the safety and happiness of all; prudence dictates that a consent once given, should not be recalled for light and transient causes; but the right is a natural right, the exercise of which is accompanied with no injustice to any of the parties; it has therefore been universally recognized as inhering in every party, and has ever been left unimpaired by any positive regulation.

The said proposed amendment

[pg.4]

not having yet received the assent of the three-fourths of the states which is necessary to make it valid, the natural and constitutional right of this state to withdraw its assent is undeniable.

With these impressions and with a solemn appeal to the Searcher of all Hearts, for the rectitude of our intentions and under the conviction that the origin and objects of said proposed amendment were unseemly and unjust, and that the necessary result of its adoption, must be the disturbance of the harmony, if not the destruction of our system of self-government, and that it is our duty to ourselves and our sister

[pg. 5]

states to expose the same, do further declare, That, it being necessary, by the Constitution, that every amendment to the same should be proposed by two-thirds of both houses of Congress, the authors of said proposition, for the purpose of securing the assent of the requisite majority, determined to and did exclude, from the said two houses, Eighty representatives from Eleven states of the Union, upon the

pretence that there were no such states in the Union; but finding that two-thirds of the remainder of the said houses, could not be brought to assent to the said proposition, they deliberately formed and carried

[pg. 6]

out the design of mutilating the integrity of the United States' Senate, and without any pretext or justification, other than the possession of the power, without the right, and in palpable violation of the Constitution, Ejected a member of their own body representing this state, and thus practically denied to New Jersey its Equal suffrage in the Senate, and thereby nominally secured the vote of two-thirds of the said houses.

The object of dismembering the highest representative assembly in the nation and humiliating a State of the Union, faithful at all times to all its obligations and the object of said amendment were

[pg. 7]

one: - to place new and unheard of powers in the hands of a faction, that it might absorb to itself all executive, judicial and legislative power, necessary to secure for itself immunity for the unconstitutional acts it had already committed, and those it has since inflicted on a too patient people.

The subsequent usurpations of these once national assemblies, in passing pretended laws for the establishment in ten states, of martial law, which is nothing but the will of the military commander, and therefore inconsistent with the very nature of all laws, for the purpose of reducing to slavery men of their own race in those

[pg. 8]

States, or compelling them, contrary to their own convictions, to exercise the elective franchise in obedience to the dictation of a faction in those Assemblies: the attempt to commit to one man, arbitrary and uncontrollable power, which they have found necessary to exercise, to force the people of those states into compliance with their will; the authority given to the Secretary of War to use the name of the President, to countermand the President's orders, and to certify military orders to be by direction of the President, when they are notoriously known to be contrary to the President's direction, thus keeping up the forms of the Constitution

[pg. 9]

to which the people are accustomed, but practically deposing the President from his office of Commander-in-Chief, and suppressing one of the great departments of the government, that of the Executive; the attempt to withdraw from the supreme judicial tribunal of the nation, the jurisdiction to examine and decide upon, the conformity of their pretended laws to the Constitution, which was the chief function of that august tribunal, as organized by the fathers of the Republic; all, are but amplified explanations of the power they hoped to acquire by the adoption of the said amendment.

To conceal from the people the immense alterations of the

[pg. 10]

fundamental law, they intended to accomplish by the said amendment, they gilded the same with propositions of justice, drawn from the State Constitutions; but like all the essays of unlawful power to commend its designs to populace favor, it is marked by the most absurd and incoherent provisions.

It proposes to make it a part of the Constitution of the United States, that naturalized citizens of the United States shall be citizens of the United States, as if that were not so without such absurd declaration.

It lodges with the legislative branch of the government the power of pardon, which properly be-

[pg. 11]

longs, by our system, to the Executive.

It denounces and inflicts punishment for past offences, by constitutional provision, and thus would make the whole people of this great nation, in their most solemn and sovereign act, guilty of violating a cardinal principle of American liberty; that no punishment can be inflicted for any offence, unless it is provided by law, before the commission of the offence.

It usurps the power of punishment, which, in any coherent system of government, belongs to the Judiciary, and commits it to the people in their sovereign capacity.

[pg. 12]

It degrades the nation, by proclaiming to the world that no confidence can be placed in its honesty or morality.

It appeals to the fears of the public creditors, by publishing a libel on the American people and fixing it forever in the national constitution, as a stigma upon the present generation, that there must be constitutional guards against a repudiation of the public debt, as if it were possible that a people, who were so corrupt as to disregard such an obligation, would be bound by any contract constitutional or otherwise.

It imposes new prohibitions upon the power of the state to pass

[pg. 13]

laws, and interdicts the execution of such parts of the Common law as the national Judiciary may esteem inconsistent with the vague provisions of the said amendment, made vague for the purpose of facilitating encroachments upon the lives, liberties and property of the people.

It enlarges the Judicial power of the United States, so as to bring every law passed by the state, and every principle of the Common law, relating to life, liberty or property, within the jurisdiction of the federal tribunals, and charges those tribunals with duties, to the due performance of which, they, from their nature and organization and their distance from the people, are unequal.

[pg. 14]

It makes a new apportionment of representation in the national councils, for no other reason than thereby to secure to a faction, a sufficient number of the votes of a servile and ignorant race, to outweigh the intelligent voices of their own.

It sets up a standard of suffrage dependent entirely upon citizenship majority, inhabitancy and manhood, and any interference whatever by the state, imposing any other reasonable qualifications, as time of inhabitancy, causes a reduction of the State's representation.

But the demand of the supporters of this amendment in this state, that Congress should

[pg. 15]

compel the people of New Jersey to adopt what is called "impartial suffrage," makes it apparent that this section was intended to transfer to Congress the whole control of the right of suffrage in the state, and to deprive the state of a free representation, by destroying the power of regulating suffrage within its own limits, a power which they have never been willing to surrender to the general government and which was reserved to the states as the fundamental principal on which the Constitution itself was constructed, the principle of self government.

This section, as well as all others of the amendment

[pg. 16]

is couched in ambiguous, vague and obscure language, the uniform resort of those who seek to encroach upon public liberty; strictly construed it dispenses entirely with a House of Representatives, unless the states shall abrogate every qualification, and especially that of time of inhabitancy, without which the right of suffrage is worthless.

This Legislature, feeling conscious of the support of the largest majority of the people, that has even given expression to the public will, declare, that the said proposed amendment being designed to confer, or to compel the states to confer, the sovereign right of the elective

[pg. 17]

franchise upon a race which has never given the slightest evidence, at any time, or in any quarter of the Globe, of its capacity for self-government, and erect an impracticable standard of suffrage, which will render the right valueless to any portion of the people, was intended to overthrow the system of self government, under which the people of the United States have, for eighty years, enjoyed their liberties, and is unfit from its origin, its objects and its matter to be incorporated with the fundamental law of a free people; Therefore,

1. Be it Resolved by the Senate and General Assembly of the State of

[pg. 18]

New Jersey, that the Joint Resolution approved September Eleventh, Anno Domini Eighteen hundred and Sixty-Six relative to amending the Constitution of the United States, which is in the following words, to wit:

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

1. Be it Resolved by the Senate and General Assembly of the State of New Jersey, that the amendment to the Constitution of the United States proposed at the first session of the thirty ninth Congress, by a resolution of the senate and house of representatives of the United States of America in Congress assembled, to the several

[pg. 19]

state legislatures, be and the same is hereby ratified upon the part of this legislature, and made a part of the constitution of the United States of America, said amendment being in following words, to wit:

Article XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property, without due process of law, nor deny to any person

[pg. 20]

within its jurisdiction the Equal protection of the laws.

Section 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of Electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age and citizens of the United States, or in any way abridged, except

[pg. 21]

for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Section 3. No person shall be a Senator or Representative in Congress, or Elector of President or Vice President, or hold any office, civil or military, under the United States, or under any state who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any state legislature or as an executive or judicial officer of any state to support the constitution of the United States, shall have

[pg. 22]

engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

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

[pg. 23]

be held illegal and void.

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

Be and the same is hereby rescinded, and the consent on behalf of the State of New Jersey to ratify the proposed fourteenth amendment to the Constitution of the United States is hereby withdrawn.

2. And be it resolved, that copies of the foregoing preamble and resolution, certified to by the President of the Senate and Speaker of the General Assembly, be forwarded to the President of the United States, the Secretary of State of the United States, to each

[pg. 24]

of our Senators and Representatives in Congress and to the Governors of the respective states.

3. And be it resolved, that these Resolutions shall take effect immediately.

[pg. 25]

In Senate,

February 19th, 1868.

This Joint Resolution having been three times read and compared in the Senate,
Resolved, that the same do pass.

By order of the Senate.

H. S. Little, President of the Senate

House of Assembly,

February 20th, 1868.

This Joint Resolution having been three times read and compared in the House of Assembly,
Resolved, that the same do pass.

By order of the House of Assembly.

A. O. Evans, Speaker of House of Assembly