

was like the right to breathe the air, or walk the earth.

Since the adjournment yesterday, I have taken the pains to look over the volume of the Constitutions of the several States, to see what provision has been made for this important privilege, so essential, so indispensable, lying at the foundation of all idea of free government by the people. Why, sir, if the people are not to be unrestricted in the discussion of all questions, civil, political, philosophical and religious, how are they to come to a proper enlightened conclusion? If men may not compare ideas upon all questions that come up, though they are the source of all political power, how is it possible that any reasonable conclusion can ever be reached? In denying that liberty you deny a principle lying at the very foundation upon which all our institutions are based. In restricting it, in transcribing it, in putting it under a ban, you subvert the very idea of a free government.

I desire to read to this Convention some of the articles which have been incorporated into the bill of rights of other States, with a view of showing what idea has been entertained in those States where it has been deemed necessary to advert to this question at all, and to provide safeguards to be thrown around it. I begin with the Constitution of the United States. In many of the State Conventions that adopted and ratified the Constitution of the United States, an objection was made to it upon the ground that it did not contain a bill of rights. In all the Conventions the reply to that argument was that the Constitution of the United States was intended to constitute a government of delegated and limited powers, by necessary implication no power could be exercised by it except it was expressly granted; and therefore it was not necessary to have a bill of rights, as in State Constitutions, where the great mass of powers were conferred upon State governments, unless reserved to the people by the Constitutions. But so important was it deemed by the people who adopted the Constitution, that certain rights should be recognized expressly, and restrictions upon them prohibited by an amendment of the Constitution, that in several of the States the Constitution came near being rejected—especially in Massachusetts and New York—because they desired to have these amendments, and they were afraid that unless they were made previously to the adoption of the Constitution, they might not afterwards be adopted. New York was very near putting those amendments in the shape of conditions; that if the Constitution was not amended by the insertion of the clauses she deemed essential to the preservation of liberty, she would reserve the right, after a certain number of years, of resuming her sovereignty and retiring from the confederacy.

But upon being advised that a conditional ratification was a rejection, that she would not be included in the confederacy at all, or be numbered among the States necessary to adopt the Constitution in order that it should go into operation, that proposition was negatived. But she trusted to the assurance given on every side that there would be no doubt about the incorporation in the Constitution, of the amendments that were deemed so important. And hence directly after the adoption of the Constitution by the States, after it went into operation among the States adopting it, the very first amendment which was adopted by universal consent, by all the States, is in the following words:

“Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.”

There is an express prohibition upon Congress to interfere with the freedom of speech. Then how is it in reference to the States that formed and adopted Constitutions? I begin with the State of Maine. The provision in the bill of rights in the Constitution of the State of Maine is in these words:

“Every citizen may freely speak, write and publish his sentiments on any subject, being responsible for the abuse of this liberty. No laws shall be passed regulating or restraining the freedom of the press; and, in prosecutions for any publication respecting the official conduct of men in public capacity, or the qualifications of those who are candidates for the suffrages of the people, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury after having received the direction of the court, shall have a right to determine, at their discretion, the law and the fact.”

Massachusetts did not deem it worth while to put such a declaration formally in their bill of rights. She never dreamed that that right would be questioned in any government that pretended to be free and to be founded upon the will of the people. The provision in the Constitution of Vermont is in these words:

“That the people have a right to a freedom of speech, and of writing and publishing their sentiments concerning the transactions of government, and therefore the freedom of the press ought not to be restrained.”

The next is New York:

“Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments