

was raised as to the validity of the election. The Senate of the United States expressly decided that, in choosing a United States senator, the Legislature of the State did not act under the Constitution of the State, but under the Constitution of the United States; that it stood absolved from all its obligations to the State Constitution, and exercised the power directly conferred upon it by the Constitution of the United States, which exempted it from every obligation to obey any provision of the State Constitution in respect to that subject. Now, if the Legislature is bound to obey such a provision as this, then everybody is bound by it. Congress is bound by our laws, if they are legal; if they are not legal, then they are not bound.

Mr. CLARKE. I remember the case alluded to; but I understood the Senate to decide it upon the ground that it was a question which went home to the consciences of the members of the Legislature.

Mr. STIRLING. How can it go to their consciences, when they are exercising a power derived from the Constitution of the United States, and which the Constitution of the State had no right to take from them?

Mr. CLARKE. The Constitution of the United States only says that the Legislature of the State shall elect United States senators. But the *quo modo*, and those from whom they shall elect, I regard as matters to be regulated by the State Constitution.

Mr. CHAMBERS. I am sorry to see my friend from Prince George's (Mr. Clarke) so enamored of oaths, which I rather think are the nuisance of the country at this time, as to desire to enact in our Constitution that a man shall take an oath which he admits we have no power to prescribe. It is bad enough to make us take oaths which he admits they have the power to put to us.

Mr. CLARKE. I think we have the right to prescribe the oath.

Mr. CHAMBERS. I referred, in the last Convention, to the very case to which the gentleman from Baltimore city (Mr. Stirling) has alluded. And I also referred to another case in the city of Baltimore, where a person elected to Congress did not reside in that portion of the State from which the Legislature of the State said he should come. But he was admitted to his seat, because Congress decided that the Legislature had no right to limit the portion of the State from which the candidate should be taken.

Mr. PERRY. The idea seems to be to avoid having a congressman, or an office-holder under the General Government, filling a seat in either House of the Legislature of the State of Maryland. To meet that view, I propose, after the proposition now under consideration shall have been disposed of, to offer this amendment:

Strike out the words—"his acceptance

thereof shall vacate his seat"—and insert the following:

"And shall not decline or refuse such office within ten days after his election or appointment, then his seat as a senator or delegate shall be vacated."

I think that will meet the views entertained by all parties, so as to exclude any office-holder under the General Government from holding a seat in the Legislature of the State of Maryland.

Mr. BRISCOE. Notwithstanding what has been said by my friend from Kent (Mr. Chambers) in regard to the strict constitutional view of this question, the people of Maryland, I think, have been heretofore acting in the same position of disregarding their obligations to respect the Constitution of the United States, as we would be if we should incorporate in our Constitution the amendment proposed by the gentleman from Prince George's (Mr. Clarke.) When we undertake to confine the election of senators by territorial limits, one to the eastern shore and one to the western shore, we undertake, so far as it is competent for the Legislature of Maryland to do so, to prescribe the qualifications of senators of the United States. We have done it, at all events, and looking to that, and believing that the adoption of the proposition of the gentleman from Prince George's (Mr. Clarke) would have the effect of accomplishing a great good, preventing one of those evils that have come under my own observation, I am willing to risk this question of the doubtful exercise of a power, by voting for it.

I know that there was a divided vote in the Senate of the United States upon the question of the admission of a senator from Indiana, in the case to which the gentleman from Baltimore city (Mr. Stirling) alludes. But my construction of that power of the Congress of the United States to judge of the qualifications of its own members, goes to this extent. Section five of the Constitution of the United States says:

"Each house shall be the judge of the elections, returns and qualifications of its own members."

That is a very broad proposition. Now, my construction of this article is, that when the framers of this Constitution put that provision there, they had antecedently stated in the third section what were the qualifications of senators of the United States. That section reads:

"No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen."

Now, according to my view, the power here given to the Senate of the United States to judge of the qualifications of its members is limited by this antecedent third section,