

decided that there existed between the rebellious States and the United States a condition of war which places the two in the relation of belligerents, and gives to each all the rights which belong to belligerents in an international war.

"I believe I speak advisedly when I say that, whatever may be their language, the court designed and affirmed no such general proposition. They held what, indeed, cannot be denied, because your legislation recognizes its existence, and because, independent of that recognition, the fact is apparent that a state of war exists. That the insurrection, however at the first it might have been arrested by the mere civil power, had culminated to a point which places it beyond that power, or any other but the power of war. In saying this, however, the court referred only to the particular cases which were before them, and cases of like character, and to the particular questions presented by such cases. They relied upon belligerent rights growing out of the actual war, merely with the view to show that the goods captured upon the high seas, coming from the territorial limits of the rebellious States were to be considered, under the prize law, as prize of war; and that the question whether legal prize or not was to be determined by the principles of the prize law as a part of the law of nations. But in so ruling, in answer to the objection, that although in one sense a war, it was a rebellion in which each citizen in the rebellious States was guilty of treason against the United States, they said that that was true, but that such parties were not the less to be esteemed enemies because they were traitors.

"The court never intimated, as I read their opinion, that the existence of a belligerent relation between the two forces terminated the civil obligations which the citizens of the rebellious States are under to the government of the United States; but, on the contrary, announced, as before stated, that their being traitors did not, in the view of the prize law, show that they were not also enemies. The court, I understand, decided that each of the citizens or inhabitants of the rebellious States still owes, as before, unqualified allegiance to the government of the United States, and to be under an obligation to fulfil it; and consequently, that when the authority of the United States shall be restored, such of them may be proceeded against as traitors who may have voluntarily aided the rebellion."

There is the construction of what this court has said. Then I ask, if you do not have some such restriction as this, what is to hinder such men as Bradley T. Johnson, and others engaged in this rebellion, from coming back here and claiming the right to vote, and thus overturning our free institutions by bringing treason to corrupt the very purity of the ballot-box? We need just such an oath as this in order to purge men. And as

has been so well said here to-day by my colleagues, why should men claim the right to vote, or want to vote under the government protecting them, when their avowed purpose is to destroy and break up the government under which they claim their rights and privileges?

I say that if gentlemen are right on this question, if they do not sympathize with the rebellion, they have only to say so to be allowed the same rights that others have. But as I had occasion to say on this floor once before, if I were under Jeff. Davis' government, and wanted to overthrow that government, as an honest man I never would hold office under it, or take an oath to support it. I would do neither of those things unless in my heart I wanted that government to prevail. And I do not believe any other honest man in heart will offer to vote under a government which he is trying to destroy.

Mr. BARRON moved the previous question, which was seconded.

Mr. DAVIS, of Charles. I rise for the purpose of making a personal explanation.

The PRESIDENT. That is not now in order. The previous question has been moved and seconded. And the question now is upon ordering the main question to be put.

Upon this question Mr. MARBURY called for the yeas and nays, which were ordered.

The question was then taken, by yeas and nays, and resulted—yeas 35, nays 23—as follows:

Yeas—Messrs. Goldsborough, President; Abbott, Annan, Audoun, Baker, Barron, Cunningham, Cushing, Daniel, Davis, of Washington, Dellinger, Ecker, Galloway, Greene, Hebb, Jones, of Cecil, Kennard, King, Markey, McComas, Mullikin, Murray, Parker, Pugh, Purnell, Russell, Schlosser, Scott, Smith, of Worcester, Sneary, Stirling, Stockbridge, Swope, Todd, Wooden—35.

Nays—Messrs. Belt, Billingsley, Blackiston, Brown, Chambers, Crawford, Davis, of Charles, Dent, Duvall, Edelen, Hollyday, Horsey, Johnson, Lansdale, Lee, Marbury, Mitchell, Miller, Morgan, Parran, Peter, Smith, of Dorchester, Turner—23.

The main question was accordingly ordered.

The following explanations, pending the call of the yeas and nays, were made by members as their names were called:

Mr. BELT. One or two other gentlemen, myself among the number, desire to be heard a few minutes upon this question. If every one had been heard who desired to speak, of course I should have no objection to the previous question being called. But as that is not the case I vote "no."

Mr. DAVIS, of Charles. I shall be compelled to vote in the negative on this question. We have adopted a rule here restricting each member to twenty minutes in the expression of his views upon any question