DEATH OF GENERAL SCOTT.

The President pro tempore laid before the Senate the following message from the President of the United States:

To the Senate and House of Representatives:

With sincere regret I announce to Congress that Winfield Scott, late lieutenant general in the Army of the United States and afterward Commander of the District of Columbia, died at West Point, in the State of New York, on the 29th day of May instant, at eleven o'clock in the forenoon. I feel well assured that Congress will concur in the sentiment which must result from his bereavement of a citizen whose high fame is identified with the military history of the Republic.

WASHINGTON, May 30, 1866.

W. JACKSON.

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any person held to service or labor in said State be excluded from the benefits of the last two sections of said article, orsubject to the jurisdiction thereof, excluding Indians not taxed, are citizens of the United States and of the States wherein they reside.

Mr. DOOLITTLE. I presume the honorable Senator from Michigan does not intend by this amendment to include the Indians. I move, therefore, to amend the amendment—namely, I will have inserted after the word "thereof" the words "excluding Indians not taxed." The amendment would then read:

All persons born in the United States, and subject to the jurisdiction thereof, excluding Indians not taxed, are citizens of the United States and of the States wherein they reside.

Mr. HOWARD. I hope that amendment to the Senate and House of Representatives be not adopted. Indians born within the limits of the United States, and who maintain their tribal relations, are not subject to the jurisdiction of the United States. They are regarded, and always have been in our legislation and jurisprudence, as being quasi foreign nations.

Mr. COWAN. The honorable Senator from Michigan has given this subject, I have no doubt, a good deal of his attention, and I am really surprised to find he has a legal definition of "citizenship of the United States." What does it mean? Is its length and breadth? I would be glad if the honorable Senator in good earnest would favor us with some such definition of the Chinese labor emigrant in California a citizen? If so, what rights have they? Have they any rights at all to a sovereign, a United States? If a traveler comes here from Ethiopia, from Austria, or from Great Britain, he is entitled, to a certain extent, to the protection of the laws. You cannot commit an assault and battery on him, I appreciate the right to the protection of the laws; but he is not a citizen in the ordinary acceptation of the word.

It is perfectly clear that the mere fact that a man is born in the country has not heretofore entitled the individual to exercise political power. He is not entitled, by virtue of that, to be an elector. An elector is one who is chosen by the people to perform that function, just the same as an elector is one chosen by the people to exercise the franchises of an office. Now, I should like to know, because really I have been puzzled for a long while and have not been able to name exactly, either from conversation with those who have not the time to know, who have given this subject their attention, or from the decisions of the Supreme Court, the lines and boundaries which circumscribe the number of citizen of the United States.

What is it?

So far as the courts and the administration of the laws are concerned, I have supposed that every human being was a citizen in one sense of the word a citizen, that is, a person entitled to protection; but in so far as the right to hold property, particularly the right to acquire title to real estate, was concerned, that was only within the control of the States. It has been so considered in the State of Pennsylvania, and alike the others who acknowledge no allegiance, either to the Federal Government, may be limited and circumscribed in that particular. I am sure that, so far as the exercise of political power within its boundaries, particularly the right to vote, is concerned, that is the right to absolutely expel them. I do not know that there is any danger to many of the States in this Union, but it is proposed that the people of Cal-
ifornia are to remain quiescent while they are overrun by a flood of immigration of the Mongol race? Are they to be immolated out of house and home by Chinese? I should think not. It is not supposed that California, in her natural and general sense, has any higher rights than the people of China; but they are in possession of the country of California, and therefore of the country itself, of different race, of different religion, of different manners, of different traditions, different tastes and sympathies to come there and have the free right of power to make and enforce laws among them, and if they have the opportunity of pouring in such an immigration as in a short time will double or treble the population of California, I ask, are the people of California prepared to protect themselves? I do not know that the contingency will ever happen, but it may be well to consider it while we are on this point.

As I understand the rights of the States under the Constitution at present, California has the right, if she deems it proper, to forbid the entrance into her territory of any person she chooses who does not possess the qualifications of a citizen of the United States. She cannot forbid its entrance; but unquestionably, if she were likely to be invaded by a flood of Australians or people from Borneo, I think it would be a legitimate and proper thing for the people of California to say to the Government of the United States, I ask, will you not see to it that those people should not come there? It depends upon the inherent character of the men.

Why, sir, there is a difference between the Chinese and the people of California. There is a difference of purpose, a difference of interests, a difference of means, and I think it is not calculated to injure the interests of the people, that the Chinese are not furthering any selfish purpose. They are not there to injure any of our interests.

It must be evident to every man intrusted with the power and duty of legislation, and qualified to exercise it in a wise and temperate manner, that these things cannot be; and in my judgment there should be some limitation, some definition to this term "citizen of the United States." What is it? Is it simply to put a man in a certain oratorical condition, or is it to put him in a condition to have the right to enter the United States courts and sue? Or is it only that he is entitled to all the privileges of a citizen that he possesses in his own country? Is it to be extended to all the advantages of other countries that he possesses in his own country? Is it to be extended to all the privileges of the laws while he is within and under the jurisdiction of the courts? Or is it to set him upon some pedestal, some position, to put him out of the reach of State legislation and State power.

Sir, I trust I am as liberal as anybody to-wards the rights of all people, but I am unwilling, on the part of the State, to give up the rights that she claims, and to exercise, and exercise before very long, of expelling a certain number of people who invade her borders; who owe her no allegiance; who possess not an own one; who do not have the privileges of the people in her government; who have a distinct, independent government of their own—an imperium in imperio; who pay no taxes; who never perform any military service of the government, which becomes the citizen, and perform none of the duties which devolve upon him, but, on the other hand, have no homes, pretend to own no land, live nowhere, and are driven from every place they go and, whose sole merit is a universal wadi; who delights in it, who boasts of it, and whose adroitness and cunning is of such a transcendent order, that they are to correct it or punish it; I mean the Gypsies. They wander in gangs in my State. They follow no estomage pursuit for a livelihood. They trade horses, tell fortunes, and things disappear mysteriously. Where they came from nobody knows. Their very origin is lost in mystery. No man to-day can tell from whence the Zin...
not claim our entire attention. Here is a simple declaration that a score or a few score of human beings born in the United States shall be regarded as citizens of the United States, entitled to civil rights, to the right of equal protection, to the immunity of the law, to the privilege of equal protection before the law with others.

Mr. Howard. There is a typographical error in the amendment now under consideration. The words "State" line is printed "States." It should be in the singular instead of the plural number, so as to read: "all persons born in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State (or States) wherein they reside." I move that that correction be made.

Mr. Johnson. I submit to the Senator from Michigan that it stands just as well as it is.

Mr. Howard. I wish to correct the error of the printer; it is printed "States" instead of "State." The PRESIDENT pro tempore. The correction will be made.

Mr. Johnson. I doubt whether it is an error of the printer.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Wisconsin to the amendment of the Senator from Michigan to the resolution before the Senate.

Mr. Doollittie. I moved this amendment because it seems to me very clear that there is a large mass of the Indian population who are subject to the jurisdiction of the United States, but it is not done thus are citizens of the United States. All the Indians upon reservations within the several States are subject to the jurisdiction of the United States, both civil and military. We appoint civil agents who have a control over them in behalf of the Government. We have our military commanders in the neighborhood of the reservations who have complete control. For instance, there are seven or eight thousand Navajoes at this moment under the control of General Carlisle, in New Mexico, upon the Indian reservations. We have six, managed, controlled, fed by the War Department, managed by the War Department, and at a cost to this Government of almost a million dollars every year. Because it is managed by the War Department, paid out of the commissary fund and out of the appropriations for quartermasters' stores. The people do not realize the enormous expenses which are consumed upon federal house for these six or seven thousand Navajoes to be made citizens of the United States? Go into the State of Kansas, and you find there number of reservations, Indians in all. Go to the wild Indian of the plains, who lives on nothing but the meat of the buffalo, to those Indians who are partially civilized and have partially adopted the habits of civilized life. So it is in other States. In New York there are the Chippewas, the remnants of the Winnebagos, and the Pottawatomies. There are the Seneca of the State of New York and other States of the United States who are to be regarded as citizens of the United States, and by a constitutional amendment declared to be such, because they are born within the United States. I ask your attention to this question.

Mr. President, the word "citizen," if applied to them, would bring in all the Digger Indians of Arizona, the mostly peaceable appearing; the people of California, the Mapes, have put them out of the way; but there are the Indians of Oregon and the Indians of the territories of today, there are more white citizens this moment if you admit it as a State. And yet by a constitutional amendment to propose to declare the Teacs, the Tabakus, and all those wild Indians, the citizens of the United States, the great Republic of the world, whose citizenship should be a
title as proud as that of king, and whose danger is that you may degrade that citizenship.

Mr. President, I was about to proceed, when I was interrupted, carried on in a manner of course, the rights, the responsibilities, the duties, the immunities, the privileges of citizens, for that is the very object of this constitutional amendment, if you will extend it, to extend to the subject to which the Senate, at this length, have addressed me. They have simply raised the question. I think that it would be exceedingly unwise to adopt the amendment as it is in the Constitution of the United States the broad language proposed. Our fathers did not act in this way, in the Constitution as they adopted it, and I think we cannot enumerate them, indeed, as a part of the population upon which they based representation and taxation; much less did they make them citizens of the United States.

Mr. President, before the subject of the constitutional amendment passes entirely from the Senate, I may desire to avail myself of the opportunity to address the body more at length, but now I simply direct what I have to say to the precise point contained in the amendment which I have submitted.

* Mr. TRUMBULL. Of course my opinion is not any better than that of any other member of the Senate. If we cast our minds back upon the time when there was nothing whatever in the suggestions of the Senator from Wisconsin, the provision does not cover all the wild Indians, it is a serious doubt; and the best description he can give of the opinion of the chairman of the Committee on the Judiciary, who has investigated the civil rights bill so thoroughly, on the subject, or any other gentleman, who has heard it, is that he had the impression that it would not cover them.

Mr. TRUMBULL. Not except where it is done under special provision—except the wild Indians of the plains.

Mr. JOHNSON. By special provision of legislation. That I understood.

Mr. TRUMBULL. Not except where it is done under special provision—except the wild Indians of the plains.

Mr. JOHNSON. Yes, I do. I am not objecting at all to their being citizens now; what I object to in the amendment is that it extends to the limits of the United States, the United States may—[another question; whether they proposed to govern them under the treaty-making power is quite another question; but] the question as to the authority to legislate is one, I think, about which we are to exercise some judgment. We know they would have no doubt; and when, therefore, the courts come to consider the meaning of this provision, that all persons born within the limits of the United States are citizens, and are called upon to decide whether Indians born within the United States, with whom we are now making treaties, and who are subject to the jurisdiction thereof are citizens, and are called upon to decide whether Indians born within the United States, with whom we are now making treaties, are citizens, and are called upon to decide whether Indians born within the United States, with whom we are now making treaties, are citizens, are citizens or not, the question is this: which would have no doubt; and when, therefore, the courts come to consider the meaning of this provision, that all persons born within the limits of the United States are citizens, and are called upon to decide whether Indians born within the United States, with whom we are now making treaties, are citizens, or not. I am not, for my part, objecting to the proposition that all persons born in the United States are citizens, but I object to the proposition that all persons born within the limits of the United States are citizens.
conside propose to insert would leave it very uncertain. I suppose that my friend from Illinois agreed to the second section of this constitutional amendment because he understood it to be inserted in that section. In apprising the representation, as you propose to do by virtue of the second section, you exclude from the basis of the words, “Indians not taxed,” the words that have been added to it. And the honorable member from Illinois says that that is very uncertain. What does it mean? It means or would mean if inserted in the first section, nothing; according to the honorable member from Illinois. We are not mistaken. Nothing is inserted in the first section: it means nothing where it is proposed to insert it in the second. But I think my friend from Illinois will find it a power to the government of the United States to violate the provision, as I have understood and have always been understood; they are now almost technical terms. They are found, I think, in nearly all the statutes upon the subject. The words have been inserted in the first section as if that was the particular statute upon which my friend from Illinois so much relied as one necessary to the peace of the State, the civil rights bill, has the same provision in it, and that I believe was prepared altogether, or certainly principally, by my friend from Illinois. I read now from the civil rights bill as it passed: “That every person who is a citizen of the United States and is not subject to any foreign jurisdiction, whether Indians not taxed, are hereby declared to be citizens.”

What did those words mean? They meant something. What the State of Illinois understood them to mean in 1866 when they were inserted in that act is the same meaning which will be given to them if they are inserted in the first section of this constitutional amendment. But I conclude with the view that the Senate is trying to settle this, among other questions, for all time, and if my friend will permit me to say so, our clear duty—to put every provision which the Senate made in that bill as if that was the interpretation of those words. The Senate from Maryland and myself, perhaps, would understand them alike as embracing all Indians who were not civil-minded, the people of the United States. "Indians not taxed," other persons may not understand them in that way; and I remember that the Senator from Indiana was disposed to understand them differently, and that the discussion upon the civil rights bill. Therefore I think it better to avoid these words and that the language proposed in this constitutional amendment is better than the language in the civil rights bill. The object to be arrived at is the same.

I have already replied to the suggestion as to the Indians being subject to our jurisdiction. They are not subject to our jurisdiction in the sense of owing allegiance solely to the United States, and I think we have the same words in the constitution of the United States. A person can only be tried for a criminal offense in pursuance of a tax law, and he must be tried in a district which must have been fixed by law before he was committed. We have had in this country, and have to-day, a large region of country within the territorial limits of the United States, unorganized, over which we pretend to exercise any civil or criminal jurisdiction, where wild tribes of Indians roam at pleasure, subject to their own laws and regulations, and we do not pretend to interfere with them. They would not be embraced in this provision. For those reasons I think this language is better than the language employed by the Constitution.

Mr. HENDRICKS. Will the Senator from Illinois allow me to ask him a question before he sits down?

Mr. TRUMBULL. Certainly.

Mr. HENDRICKS. I wish to know if, in his opinion, it is not a matter of pleasure on the part of the Government of the United States, and especially of Congress, whether the laws of the United States shall apply to the Indians or not; if it is not a matter to be decided by Congress alone whether we treat with the Indians by treaty or govern them by law; whether the power of Congress has not the power at its pleasure to extend the laws of the United States over the Indians and to govern them.

Mr. TRUMBULL. I suppose it would have the same power that it has to extend the laws of the United States over Mexico and govern her in our discretion we thought proper to extend the laws of the United States over the republic of Mexico, or the empire of Mexico, if you please so to call it, and have sufficient authority to do it, I would not say I may in this case we have the power to do it, but it would be a violation of our treaty obligations, a violation of the faith of this nation, to extend our laws over these Indian tribes with whom we have made treaties saying we would not do it.

Mr. FISSENDEN. We could extend it over Mexico in the same way.

Mr. HENDRICKS. I think we could extend it over Mexico just as well; that is, if we have the power to do it. Congress might declare war, or, without declaring war, might extend our troops over those portions of Mexico, and it is, and if we had the power we could enforce that declaration; but I think it would be a breach of good faith on our part to extend the laws of the United States over the Indian tribes with whom we have these treaty stipulations, and in which treaties we have agreed that we would not make them subject to the laws of the United States. There are numerous treaties of that kind.

Mr. VAN WINKLE. If the Senator will permit me, I wish to remind him of a citation from a decision of the Supreme Court that he himself has cited, and that the civil rights bill was under discussion; and if I correctly understood it, as he read it, the Supreme Court decided that these untaxed Indians were distinctly distinguished between subjects and citizens.

Mr. TRUMBULL. I think there are decisions that treat them as subjects in some cases, and as citizens as within the territorial boundaries of the United States, but I do not think they are subject to the jurisdiction of the United States in any legitimate sense; certainly not in the sense that the language is used in the Constitution is more favorable to me to be better chosen than it was in the other bill. There is a difficulty about the words, "Indians not taxed." Perhaps one of the reasons why I think it is better to have the consistency with which the Senator from Indiana himself insisted that the phrase "excluding Indians not taxed," the very words which the Senator from Pennsylvania wishes to insert here, would exclude everybody that did not pay a tax; that was the meaning of it; we must take it literally. The Senator from Maryland did not say that, nor did I; but if the Senator from Indiana was right, then, were a construction which I am sure the Senator from Wisconsin would not be for; for if these Indians come within our limits and within our jurisdiction, then, evidently, we have not to wait for the Senate to make a construction. I think the Senator from Pennsylvania should not be made a citizen of this country to be more secure than he was in the other bill.

Mr. HENDRICKS. I expected the Senator from Illinois, being a very able lawyer at the head of the Senate Committee, to meet the question that I asked him and to answer it as a question of law, and not as a question of military policy. I did ask him the question whether the Government of the United States had the military power to go into the Indian territory and subjugate the Indians to the political power of the country; nor had he a right to understand the question as I asked him the question whether, under the Constitution, under the powers of this Government, we may extend our laws over the Indians and compel obedience, or give them the right, from the Indians. If the Indian is bound to obey the law he is subject to the jurisdiction of the country; and that is the question I desired the Senator to answer. The question whether, the Indian would be bound to obey the law which Congress in express terms extended over him in regard to questions within the jurisdiction of Congress.
had been extended to Oregon; and he gave it as his opinion that the laws had been extended to Oregon, and regulated the intercourse between the white and the Indian tribes.

Subsequently, the Attorney General was asked whether Indians were citizens of the United States in such sense as that they could become the owners of property within the limits of the States to which they may be removed. According to the ideas of the honorable Senator, as I understand him, this consequence would follow: all that would remain to be done on the part of the United States would be to impose a tax upon the Indians, whether in their tribal condition or otherwise, in order to make them citizens of the United States. Does the honorable Senator suppose that would be an act of legislation?

Does he propose to leave this amendment in such a condition that the State of Wisconsin, which he so ably represents here, will have the right to impose a tax upon the Indians within their limits, and thus make them the citizens of Wisconsin, no matter how numerous citizens of the United States and of the State of Wisconsin, and whether the direct effect of his amendment if it should be adopted. It would, in short, be a naturalization, whenever the States saw fit to impose a tax upon the Indians of the whole Indian race within the limits of the States.

Mr. CLARK. The Senator will permit me to suggest a case. Suppose the State of Kansas, for instance, Indians for five years, they would be citizens?

Mr. HOWARD. Undoubtedly.

Mr. CLARK. But if she refuse to tax them, is it not a matter of the Indian? They be then? Would they be citizens or not?

Mr. HOWARD. I take it for granted that when a man becomes a citizen of the United States under the Constitution, he cannot cease to be a citizen, except by expiration or the commission of some crime by which his citizenship shall be forfeited.

Mr. CLARK. If it depends upon tax.

Mr. HOWARD. The continuance of the quality of citizenship would not, I think, depend upon the continuance of taxation.

Mr. CLARK. But still he would be an "Indian not taxed."

Mr. HOWARD. He has been taxed once.

Mr. CLARK. The point is this: was not the admission of a provision of that kind make a sort of shifting use of the Indians?

Mr. HOWARD. It might, depending upon the construction which would happen to be given by the courts to the language of the Constitution. The great objection, therefore, to the amendment is, that it is an actual naturalization, which is not a law of nature; that, however, the Indians are not subject to the States to enact a naturalization law in reference to the Indians in the shape of the imposition of a tax, of the whole Indian population within their limits, of which there is not a statesmanlike proposition. He makes the same point upon the Senator from Wisconsin which he undertook to make upon me, as far as I can understand it. If the picture of Congress to make the wild Indians from the desert, and then if three fourths of the States agree to it, I presume we will have the best way we can, and shall then be the relations between those people and the United States will be for us and for our descendants to work out. They are not now citizens, and the subject of policy we regulate our intercourse with them to a large extent by treaties, so as they shall be subject to the regulations that govern our intercourse with other nations. The idea of policy we need not treat with an Indian. We can make him obey our laws, and being liable to such obedience he is subject to the jurisdiction of the United States. I did not understand the question in this case, but I got it into it by the inquiry made of the Senator from Illinois.

Mr. HOWARD. I hope, sir, that this amendment will not be adopted. I regard the language of the section as sufficiently certain and definite. If amended according to the suggestion of the honorable Senator from Wisconsin it will read as follows:

All persons born in the United States, and subject to the jurisdiction thereof, excluding Indians not taxed, are citizens of the United States, and of the State wherein they reside.
States expressly refused to make treaties with the Indians of California, on the ground that they had no title and no jurisdiction whatever in the soil; they were absolutely subject to the authority of the government, which we derived from our treaty with Mexico.

The opinion of Attorney General Cushing, one of the ablest men who has ever occupied the position of Attorney General, has been read here, in which he says that the Indians, though born upon our soil, owing us allegiance, are not citizens; they are our subjects; and that is the very word which is used by this amendment to the Constitution of the United States, declaring that if they be "subject" to our jurisdiction, born on our soil, they are, ipso facto, citizens of the United States.

Mr. President, the celebrated civil rights bill which has been passed during the present Congress, was the forerunner of this constitutional amendment, and to give validity to which this constitutional amendment was brought forward, and which without this constitutional amendment to enforce it has no validity so far as this question is concerned, uses the following language:

"That all persons born in the United States, and not subject to any foreign Power, excluding Indians taxed, are hereby declared to be citizens of the United States."

Why should this language be criticized any more now, when it is brought forward here in this constitutional amendment, than when it was in the civil rights bill? The language be more criticized here than it is in the second section of this constitutional amendment, where the same words are used? The second section, in accordance with representation, proposes to count the whole number of persons in each State, excluding Indians not taxed. Why not insert those words in the first section as well as in the second? Why not insert them in this constitutional amendment as well as in the civil rights bill? The civil rights bill undertook to do this same thing. It undertook to declare that all persons born in the United States, and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States. But, sir, the committee of fifteen, fearing that this bill by Congress was without validity unless a constitutional amendment should be brought forward to enforce it, have thought proper to report this amendment.

Mr. FESSENDEN. I want to say to the honorable Senator, who has a great regard for truth, that he is drawing entirely upon his imagination. There is a word of right and wrong, of justice and injustice, in all that he is saying, not a scintilla, not the beginning of truth.

Mr. DOOLITTLE. I take a little issue with any friend from Maine on that point as a question of fact.

Mr. FESSENDEN. In the first place, this was not brought forward by the committee of fifteen at all.

Mr. DOOLITTLE. This proposition was first introduced into the House by a gentleman from Ohio by the name of Bingham.

Mr. FESSENDEN. I thought the Senator was speaking of the first part of the section, the amendment, not the whole.

Mr. DOOLITTLE. No, sir; that is proposed by the Senator from Michigan. As I understand, a member from Michigan, in a very able speech in the House, maintained that the civil rights bill was without any authorization from the Constitution, brought forward a proposition in the House of Representatives to amend the Constitution so as to authorize Congress to declare the civil rights of all persons, and that constitutional amendment, Mr. Bingham, who was chairman of the committee of fifteen, was referred by the House of Representatives, and from the committee it has been reported. I say I have a right to infer that it was because Mr. Bingham and others of the House of Representatives, perhaps more persons upon the committee had doubts, not least, as to the constitutionality of the civil rights bill that this proposition to amend the Constitution now appears to give it validity and force. It is not an imputation upon any one.

Mr. GRIMES. It is an imputation upon every senator who voted for the civil rights bill, the inference being legitimate and logical, that they violated their oaths and knew they did so when they voted for the civil rights bill.

Mr. DOOLITTLE. The Senator goes too far. What I say is they had doubts.

Mr. FESSENDEN. I will say to the Senator one thing: whatever may have been Mr. Bingham's motives in bringing it forward, he was wrong to bring it forward. The civil rights bill was considered at all and had it referred to the committee, and it was discussed in the committee long before the civil rights bill was passed. They were put to it, and to me further, that during all the discussion of the committee I heard nothing was ever said about the civil rights bill in connection with that. It was placed on entirely different grounds.

Mr. DOOLITTLE. I will ask the Senator from Maine this question: if Congress, under the Constitution now has the power to declare that all persons born in the United States, and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States, what is the necessity of amending the Constitution at all in this case?

Mr. FESSENDEN. I do not choose that the Senator shall get off from the issue he presented. I meet him right here on the first point, and then upon other questions, he can ask it afterward. He was saying that the committee of fifteen brought this proposition forward for a specific object.

Mr. DOOLITTLE. I said the committee of fifteen brought it forward, but they doubt as to the constitutional power of Congress to pass the civil rights bill.

Mr. FESSENDEN. Exactly; and I say, in reply, they did not have doubts, no such doubts were stated in the committee of fifteen, and the matter was not put on that ground at all. There was no question raised about the civil rights bill.

Mr. DOOLITTLE. Then I put the question to the Senator: if there are no doubts, why amend the Constitution on that subject?

Mr. FESSENDEN. If you had doubts as to that subject, the question the Senator may answer to suit himself. It has no reference to the civil rights bill.

Mr. DOOLITTLE. That does not meet the case at all. If I had friends maintain that at this moment the Constitution is right, the United States, without amendment, gives all the power you ask, why did you put this new amendment into it for that subject?

Mr. HOWARD. If the Senator from Wisconsin wishes an answer, I will give him such as I am able to give.

Mr. DOOLITTLE. I was asking the Senator from Wisconsin.

Mr. HOWARD. I was a member of the same committee, and the Senator's observations apply to me equally with the Senator. It is true I put this question of citizenship and the rights of the freedmen under the civil rights bill beyond the legislative power of such gentlemen as the Senator from Wisconsin, who would pull the whole system up by the roots and dare not expose the freedmen again to the oppressions of their old masters.

Mr. DOOLITTLE. The Senator has made his answer, I presume.

Mr. HOWARD. Yes, sir.

Mr. DOOLITTLE. Mr. President, when the Senator undertakes to say that I have any disposition to allow gentlemen to the despotic of their old masters, he is quite in error. There is not a particle of foundation or excuse for that.

Mr. HOWARD. I beg the Senator to allow me one word. I made no personal imputation against the Senator from Wisconsin.

Mr. DOOLITTLE. I desire to finish my sentence before being interrupted.
Mr. HOWARD. I will not be forced by the Senator into a false position. Mr. DOOLITTLE. I do not desire to be interrupted until I finish one sentence. I say to that Senator that so far as the rights of the freedmen are concerned I will not attempt to pare my course of action in this body or elsewhere with his. I say to that Senator that I labored as hard as he has labored to secure the rights of the freedmen. I do not mean to emasculate the slaves of the South, and to put an end forever not only to slavery, but to the aristocracy that was founded upon it; and I have, by every means in my power, done the best that I could for the freedmen, tendering up any oppression against the freedmen, tending to destroy any of their rights. I say to that Senator that I am ready at any time to meet him in argument upon it although it is drawing me now from the question in dispute, that I myself prepared and introduced here and urged a bill these provisions defended every right of the freedmen just as much as the bill to which we have now made reference, and I am prepared to do so and to defend their rights with the whole power of the Government.

But, sir, the Senator has drawn me off from the immediate question before the Senate. The immediate question is whether the language which he uses, "all persons subject to the jurisdiction of the United States," includes these Indians. I maintain that it does; and, therefore, I am not bound to apologize to any object for the purpose of excluding this class of persons, as they are, in my judgment, utterly unfit to be citizens of the United States, I have proposed and introduced here and urged a bill to enroll these persons from the Constitution as it stands, which our fathers adopted more than seventy years ago, which I find also in the civil rights bill which passed earlier this session. I find also in the second section of this constitutional amendment when applied to the enumeration of the inhabitants of the States. I insist that it is entirely unreasonable, that we exclude the wild Indians from being regarded or held as citizens of the United States.

Mr. WILLIAMS. I would not agree to this proposed constitutional amendment; if I supposed it made Indians not taxed citizens of the United States. But I am satisfied that, giving to the amendment, carefully reasonable construction, it does not include Indians.

The first and second sections of this proposed amendment are to be taken together, to be construed together, and to be understood in the word "citizens," as employed in both sections, is to be determined from the manner in which that word is used in both of those sections.

All persons born in the United States, and subject to the jurisdiction of the United States, are citizens of the United States and of the State wherein they reside.

If there be any doubt about the meaning of that paragraph, I think that doubt is entirely removed by the second section, for by the second section of this constitutional amendment Indians not taxed are to be considered not citizens, and the words in the basis of representation. The words in the second section are as follows:

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.

They are not to be regarded as persons to be counted under any circumstances. Indians not taxed are not to be counted in the basis of representation under any circumstances; and then the section provides:

But whenever, in any State, the elective franchise shall be denied to any portion of its male inhabitants, being citizens of the United States, &c.

Now, any reasonable man can conclude that the word "citizens" as employed in the first section, does not include Indians not taxed, or includes Indians not taxed, when they are expressly excluded from the basis of representation and cannot ever be taken into the calculation of persons upon

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