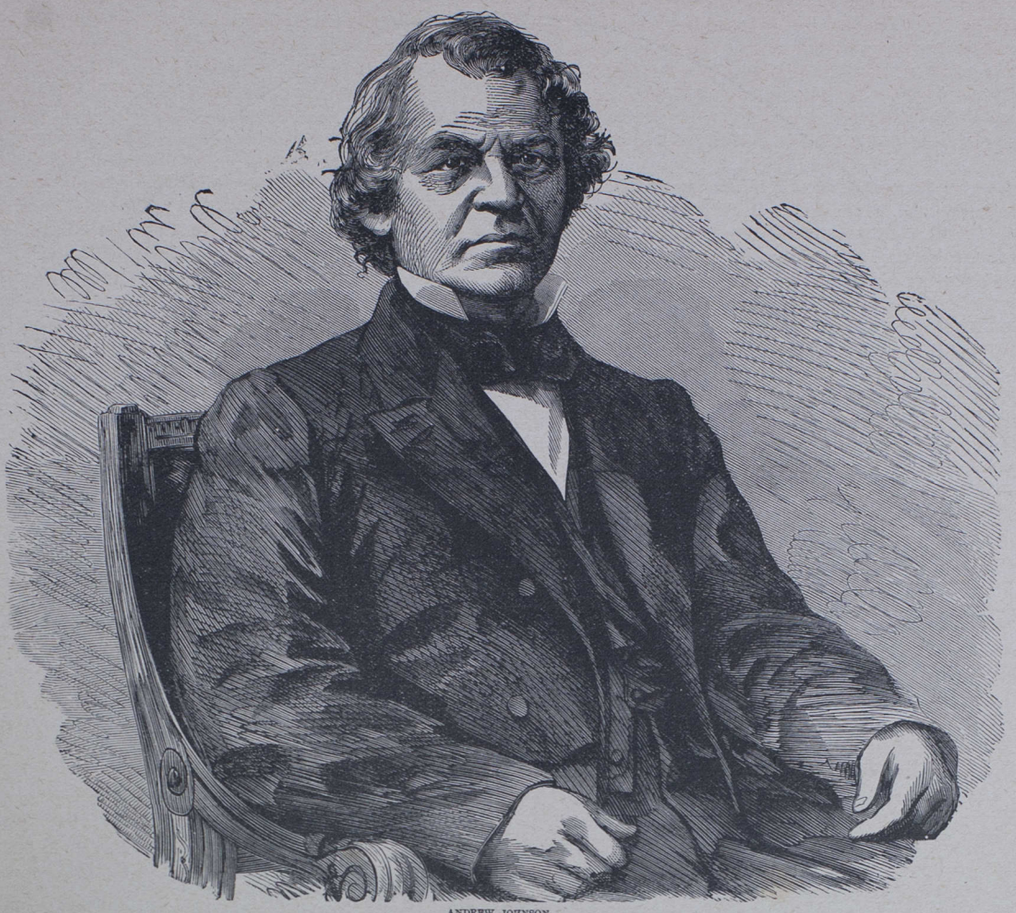


ANDREW JOHNSON.

CHAPTER LXII.

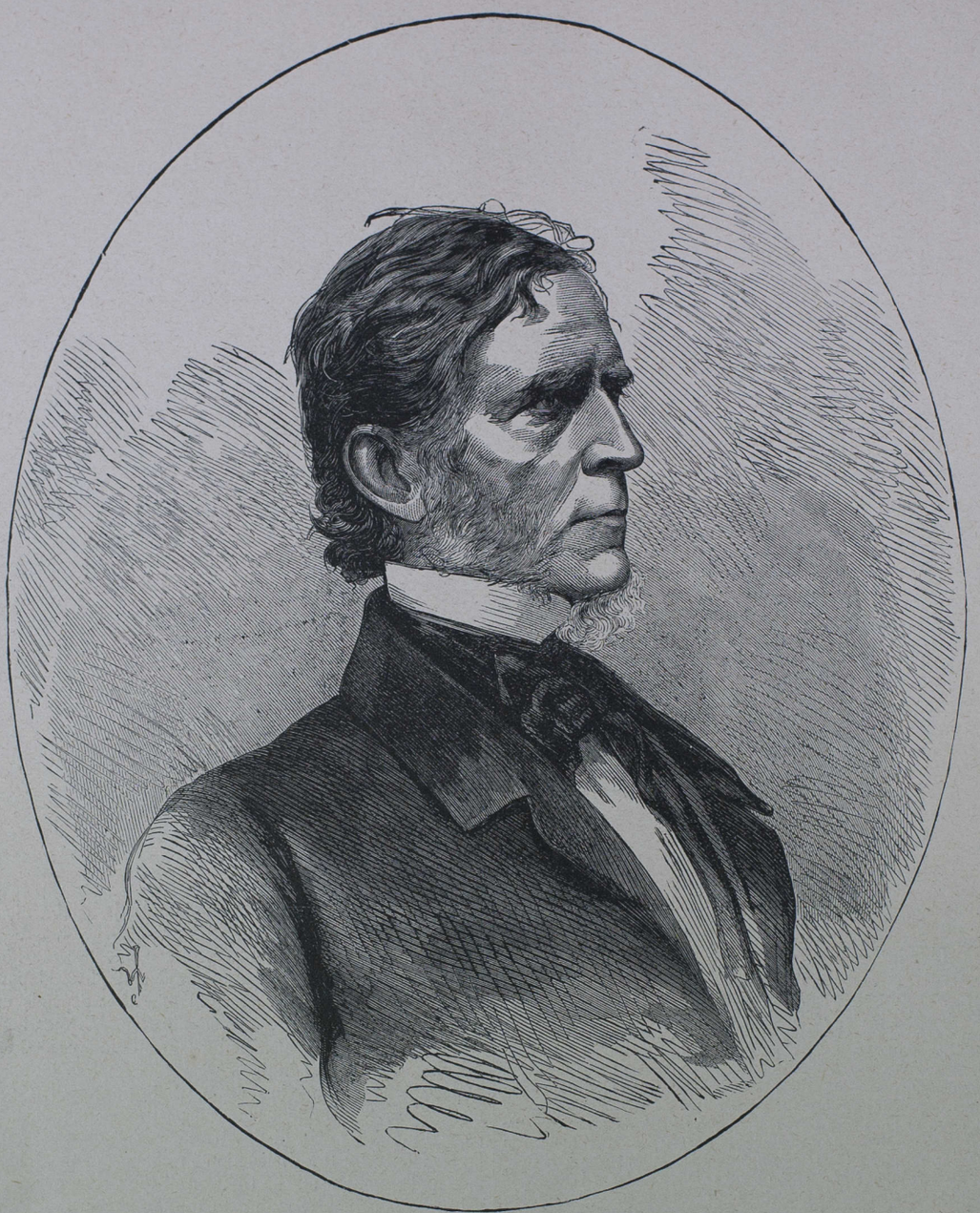
RECONSTRUCTION.—1865–1867.

Difficulties incident to Restoration from the sudden Termination of the War.—The prevailing Sentiment of the North after Lee's Surrender one of Magnanimity.—Effect of Lincoln's Assassination.—Andrew Johnson's Accession to the Presidency.—Biographical Sketch.—Johnson's Inaugural Speech.—"Treason is a Crime, and must be punished as a Crime."—His View of the Situation.—His Cabinet.—Reconstruction under Lincoln's Administration.—Johnson follows the Policy of his Predecessor.—The Constitutional Provision guaranteeing to the States "a Republican Form of Government."—Meaning of this Provision.—What was involved in a Return to Allegiance on the Part of the South.—The popular Demand.—Johnson's Amnesty Proclamation.—Establishment of Provisional Governments.—The Blockade rescinded.—Release of Stephens and Trenholm.—Martial Law suspended in Kentucky.—Partial Restoration of the Writ of *Habeas Corpus*.—Southern State Conventions.—Nullification of Secession Ordinances.—Prohibition of Slavery.—Repudiation of the Rebel Debt.—Legislation in regard to Freedmen.—Its oppressive Features.—The Temper of the Southern People.—Johnson's Disappointment.—Official Announcement of the Ratification of the Anti-Slavery Amendment.—Meeting of the Thirty-ninth Congress.—Composition of the two Houses.—The new Vice-President, L. S. Foster.—The Clerk of the House, Edward McPherson, and his Disposition of the Call-roll.—Colfax re-elected Speaker of the House.—His Speech.—President Johnson's Message.—Johnson's Mistake.—He establishes a Basis for Conflict between himself and Congress.—Ought to have convened Congress in special Session at the Outset.—The Select Congressional Committee of Fifteen on Reconstruction.—Debate in the Senate.—Reports by President Johnson, Carl Schurz, and General Grant on the Southern Situation.—Unnecessary Delay of the Reconstruction Committee.—Report of the Committee by Bill, January 22, 1866.—Joint Resolution for the Amendment of the Constitution.—Its Provisions.—The President's Views on the Readjustment of the Basis of Representation.—Debate in the House.—Roscoe Conkling's Statement.—Position of Henry J. Raymond.—The Resolution referred back to the Committee, amended, and again reported.—Stevens's Speech.—Resolution passed in the House.—Debate on the Resolution in Congress.—It fails of a two-thirds Vote.—Senator Sumner's Opposition.—Second Report of the Committee, April 30, 1866.—Features of the new Amendment proposed.—Its Passage in the House and Senate.—The President's Protest.—The Prospects of the Amendment.—Full Reports of the Reconstruction Committee, June 18, 1866.—Resolution passed to exclude Southern Representatives until both Houses should consent to their Admission.—Fessenden's Support of the Resolution.—Sherman's Opposition.—His Defense of President Johnson.—Tennessee ratifies the Amendment, and her Representatives are admitted in both Houses.—The Freedmen's Bureau Bill.—The President's Veto.—The Bill fails of a two-thirds Vote.—A new Bill passed over the President's Veto.—Bill for the admission of Colorado, vetoed by the President, fails of a two-thirds Vote.—Passage of the Bill for Negro Suffrage in the District of Columbia over the Veto.—Close of the Congressional Session.—History of the Conflict between Congress and the President.—Johnson's Speech denouncing Congress, February 22, 1866.—Division in the Republican Party.—The National Union Executive Committee of Washington.—Serenade of the President and Cabinet, May 23, 1866.—Views of the Cabinet.—Resignation of Harlan and Speed.—The Political Situation in the Summer of 1866.—The Appeal to the People, and the Issues presented.—The conflicting Arguments.—The National Union Convention at Philadelphia.—Its Character and Proceedings.—The Southern Loyalists' Convention at Philadelphia.—Cleveland Convention of Soldiers and Sailors in support of the President.—Similar Convention at Pittsburg in support of Congress.—The New Orleans Riots.—Johnson's Tour to the Tomb of Douglas.—Address of the Republican National Executive Committee in support of Congress.—The Autumn Elections of 1866.—Decisive Victory of Congress.—Passage of the Military Bill.—Provisions of the Bill.—Supplementary Act of the Fortieth Congress.—Universal Suffrage in the South.—Operation of this Act.—Southern Conventions.—Reaction in the North.—Autumn Elections of 1867.—Their Significance.—A Glance at the Future.—Conclusion.

IT is always difficult to write a fair and impartial history of contemporaneous events—almost impossible for one to write such a history who has been a prominent actor in the events which he records. The position of the actor is not that of the spectator. The field which the former occupies is executive, that held by the latter is judicial. The historian is a judicial spectator, whose business it is to reproduce before his readers not simply the facts, the bare plot of a drama, but also the ideas involved in the connections between facts, the moral and physical powers by which the drama is evolved. The strength of action depends upon concentration, which precludes extensive generalization. Strong impressions upon the world are made with clenched fists, while many-sided thought tends to relax the muscles, and leads to weak and random blows, "beating the air." Especially is this true in politics, where progress is usually marked by the fluctuations of a conflict between parties. Each of the conflicting parties lives through its own distinctive ideas, and undergoes dissolution or modification only by the destruction or change of these ideas. Neither party monopolizes either all the right or all the wrong of the contest. The political actor is generally strong in the proportion that he avails himself, and becomes the representative of the one or the other class of ideas involved in the struggle. His action does not assimilate all the good of both parties, and exclude all the evil. He is, therefore, of necessity, partial, one-sided. He who will fight under neither banner, who is unwilling to identify himself with either of the great party organizations of his time, by this isolation weakens his power to strike. But with the historian it is different. The necessity of partisanship does not exist for him. Partisan history is not history, but special pleading. The historian must generalize, must be many-sided, must be impartial. His standard of truth and justice is not a party standard.

In the present case, where the writer is about to enter upon the history of the political struggle which immediately followed the Civil War, it is peculiarly appropriate that this distinction between the necessities which obligate party leaders and those which obligate the historian should be clearly drawn. If the reader, however partisan, will remember that the historian, in his judgment of men and events, is bound by a more absolute criterion of truth than is possible in party conflict, the writer will also bear in remembrance that many political acts which involved or threatened serious evils, were rendered necessary by the inevitable political conditions which controlled the development of the time of which he writes.

The manner in which the war closed, and some of the accidents of its conclusion, largely influenced subsequent political movements. If the collapse of the Confederacy had not been sudden, but gradual, the problem of reconstruction would, indeed, have been the same in its essential elements, but much of the difficulty attending its development would have been obviated. If state after state had been brought back to its allegiance, while the war still went on in others, restoration would have been immediate and thorough in each particular case, and would not have been beset with legal doubts and difficulties. The vastness of the problem was increased by the sudden cessation of hostilities, and many of its complications arose from the universal peace which all at once settled upon the country, and seemed to demand the immediate revival of constitutional civil law. Under these circumstances, there was great danger lest restoration might come in the form of reaction, by which the country would be swept along without mature de-



WILLIAM PITT FESSENDEN.

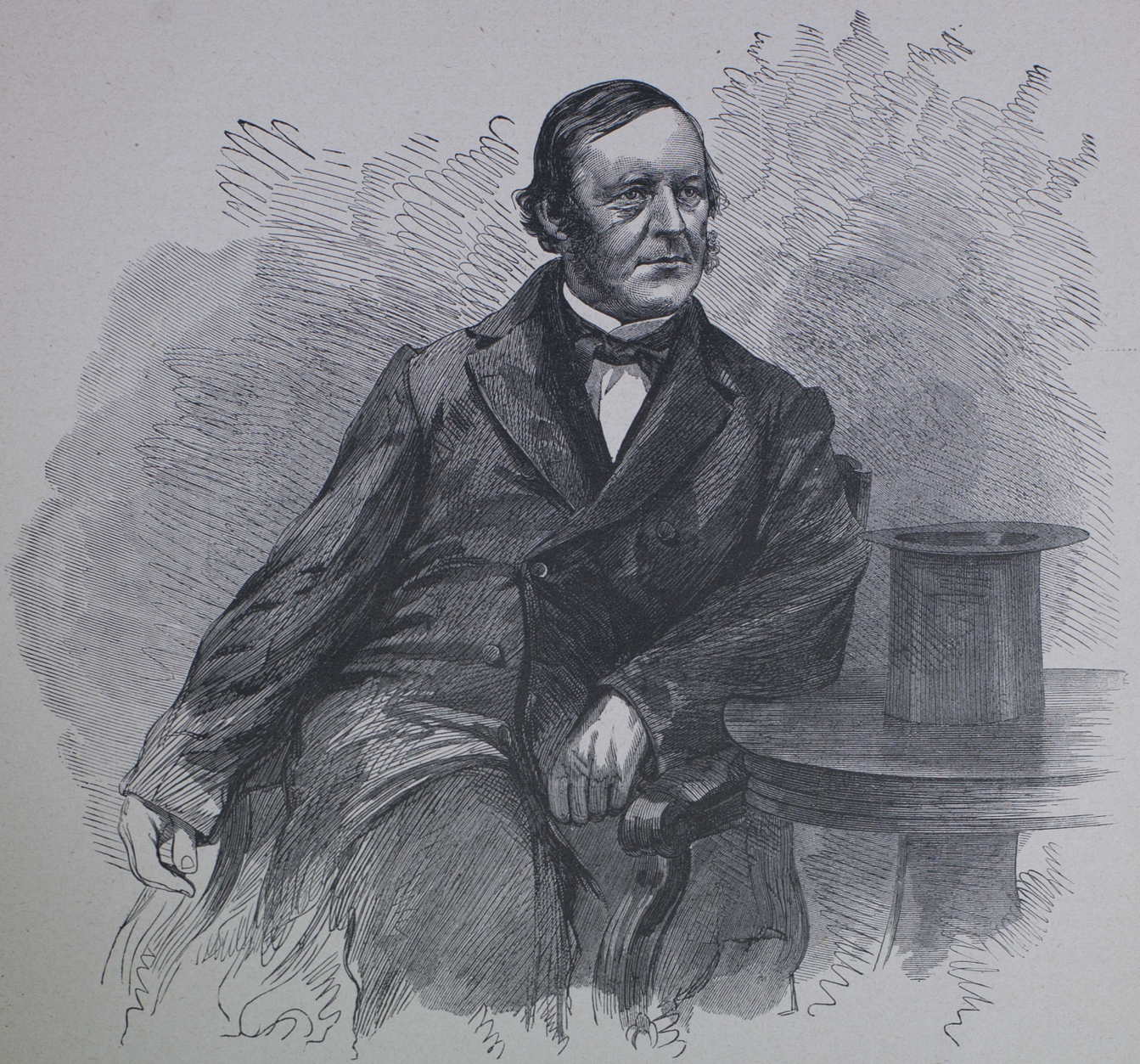
liberation, or a prudent regard for future security. The disturbance by war of the relations between the states and the central government had been violent, and their readjustment demanded the deepest thought and the most prudent caution. The domestic revolution produced in the South by the war, giving freedom to nearly four millions of slaves, added fresh and obvious reasons for such deliberation.

The prevailing feeling in the North after the surrender of Lee's army was one of magnanimity. That was generous and proper. But there might easily grow out of this such hasty action as must afterward occasion vain regret. The murder of Lincoln—the natural result of the personal abuse which had been heaped upon him by the Southern press and by Northern Copperheads—served to temper and restrain this sentiment of generosity. It recalled to mind the malevolence of those who had sought to overthrow the government; it generated distrust. The apprehensions entertained by prudent men at that time may have been extravagant, but in the light of the past they could not be deemed baseless. Certainly they were safer than the sentiment which they displaced.

Another result of Lincoln's death was a memorable change in the national administration. Andrew Johnson succeeded Abraham Lincoln.

Johnson, by the circumstance of his birth, occupied a position similar to that of Lincoln. He was born a poor Southern white. The difference between the two men arose from their different natures rather than from the outward conditions of their lives. Both were self-educated men. Neither of them knew of any school but that of experience, and thus from the first they were kept near to the people, and in close contact with the practical facts and conditions of the popular life in America. From such a relation they might have been removed by a more scholastic education and more classic culture. They knew nothing but America. Two circumstances gave Lincoln an immense superiority. The first was his moral and mental constitution, which made him a statesman of deep and unwavering convictions, and of great reasoning powers; the second was his connection with the young, free, and enterprising West. Johnson, on the other hand, by mental constitution and by the circumstances of his political career, became a demagogue rather than a statesman.

The biography of Andrew Johnson up to the time of his accession to the presidency may be condensed into a single paragraph. He was born at Raleigh, North Carolina, December 29, 1808. While a mere child he lost his father, and at the age of ten years was apprenticed as a tailor. He worked at his trade in South Carolina for seven years, and during this time acquired the rudiments of a plain English education. Removing to Greenville, Tennessee, in 1825, he was five years later elected mayor of that town. He was elected to the State Legislature in 1835, and to the State Senate in 1841. From 1843 to 1853 he was a representative in Congress from Tennessee, and during the latter year was elected governor of that state. In 1857 he was chosen United States senator for the long term, expiring in 1863. But in 1862 he was appointed by President Lincoln military governor of Tennessee. In politics he had always been identified with the Democratic party, accepting Andrew Jackson, of whose name his own was a parody, as his model. He was prominently connected with the passage of the Homestead Law. In the Thirty-sixth Congress, he alone, of all the senators from the South, remained faithful to the Union. His bold denunciation of treason created the wildest sort of popular enthusiasm in the North, and as military governor of Tennessee his action was wise and firm, strengthening the hands of the loyal men of that state, and favoring the emancipation of slavery. In 1864 the Union Convention met at Baltimore to nominate candidates for President and Vice-President. President Lincoln was renominated by acclamation, but it was not considered advisable to renominate Mr. Hamlin. The Convention was styled a "Union" Convention, and many of its delegates were not strictly Republicans. To renominate the Chicago ticket of 1860 would appear too partisan. In Andrew Johnson, however, Providence kindly, as it then seemed, furnished a candidate who had been always a Democrat, but who had been conspicuous for loyalty during the war. His nomination was effected by the friends of Mr. Seward as a conservative movement, and Andrew Johnson was elected Vice-President.



HUGH McCULLOCH.

In the Presidential campaign of 1864 Johnson was repudiated by the opposition party in the North. His inauguration as Vice-President in the following March was an occasion of humiliation to himself, and afforded an opportunity for the most vehement and scurrilous abuse on the part of his political enemies. Evidently Johnson was at this time under the influence of liquor. He was unwell, and had, at the request of some of his friends, taken stimulants previous to entering the Senate Chamber. The closeness of the room exaggerated the effect of the artificial stimulant, and under these circumstances Johnson very unwisely allowed himself to make a speech, the incoherency of which was only too evident. It was an unfortunate affair, and his enemies made the most of it, and even some Republican journals described it as a national disgrace. Others, who knew the circumstances, were charitably silent.

Six weeks later, by the death of Lincoln, Johnson became President of the United States. The oath of office was quietly administered to him at his rooms in the Kirkwood Hotel, by Chief Justice Chase, in presence of the cabinet and several members of Congress. He felt incompetent, he said, to perform the important and responsible duties which had so suddenly devolved upon him. His policy must be left for development, as the administration progressed. The only assurance he could give as to the future was by a reference to the past. He believed that the government, in passing through its present trials, would settle down upon principles consonant with popular rights, more permanent and enduring than heretofore. "Toil," said he, "and an honest advocacy of the great principles of free government, have been my lot. The duties have been mine—the consequences are God's." In conclusion, he asked the gentlemen present for their encouragement and countenance. In the addresses made at this time by President Johnson, he carefully avoided self-committal as to his future policy. He expressed, however, a strong determination to punish conscious traitors. "The American people," said he, "must be taught to know that treason is a crime. Arson and murder are crimes, the punishment of which is the loss of liberty and life. . . . . Treason is a crime, and must be punished as a crime. It must not be regarded as a mere difference of political opinion. It must not be excused as an unsuccessful rebellion, to be overlooked and forgiven. It is a crime before which all other crimes sink into insignificance; and in saying this, it must not be considered that I am influenced by angry or revengeful feelings. Of course a careful discrimination must be observed, for thousands have been involved in this rebellion who are only technically guilty of the crime of treason. They have been deluded and deceived, and have been made the victims of the more intelligent, artful, and designing men, the instigators of this monstrous rebellion. The number of this latter class is comparatively small. The former may stand acquitted of the crime of treason—the latter never; the full penalty of their crimes should be visited upon them. To the others I would accord amnesty, leniency, and mercy."[1] There is no question but that Johnson, following his own inclination, would have doomed to the scaffold every traitor of the class which he deemed guilty of crime, had not the whole people united in unanimous protest against such an extreme and unnecessary measure.

In regard to the situation in which the Southern States were left by the rebellion, he was explicit. "Some," he said, "are satisfied with the idea that states are to be lost in territorial and other divisions—are to lose their character as states. But their life-breath has only been suspended, and it is a high constitutional obligation we have to secure each of these states in the enjoyment of a republican form of government. A state may be in the government with a peculiar institution, and by the operation of rebellion lose that feature. But it was a state when it went into rebellion, and when it comes out without the institution, it is still a state. . . . . Then, in adjusting and putting the government upon its legs again, I think the progress of this work must pass into the hands of its friends. If a state is to be nursed until it again gets strength, it must be nursed by its friends, and not *smothered* by its enemies."[2]

President Johnson retained the entire cabinet of his predecessor. William Pitt Fessenden had resigned his position as Secretary of the Treasury March 4th, 1865, to take the position of senator from Maine, and Hugh

[1] Address to the New Hampshire delegation.
[2] Address to the Indiana delegation, April 21, 1865.

McCulloch had been appointed in his stead. Hon. William Dennison, of Ohio, had succeeded Montgomery Blair, October 1, 1864, as Postmaster General, the latter having resigned at Lincoln's request. In December, 1864, Edward Bates, of Missouri, Attorney General, had been succeeded by James Speed, of Kentucky. John P. Usher, Secretary of the Interior, had succeeded Caleb B. Smith, January 8th, 1863.

The subject of reconstruction did not come into President Johnson's hands as a new affair which had never before been handled or discussed. His predecessor had not been entirely silent upon this important question, and the matter had been somewhat discussed in Congress. Lincoln's Amnesty Proclamation is the best indication as to his convictions in this matter, and as to the general principles which would have characterized his administration if he had lived. In the previous pages of this history we have considered the provisions of this proclamation. Certain prominent officers of the Confederate government were excepted from the privileges which it granted. The ultimatum, as presented by Lincoln to the insurgent states, was allegiance to the government and the emancipation of slaves. Lincoln believed that the abolition of slavery would "remove all cause of disturbance in the future." Congress had incorporated in the Constitution an amendment prohibiting slavery; he only asked that this amendment should be ratified by the requisite number of states. On the 6th of April he ordered General Weitzel to permit the Virginia Legislature to assemble, and this body was to be broken up only in the event of its attempting some action hostile to the United States. Three days before his assassination President Lincoln gave his views as to the government established in Louisiana in accordance with his Amnesty Proclamation. Every member of his cabinet, he said, had approved of the plan. As to sustaining the Louisiana government he had given his promise, and had not yet been convinced that the keeping of this promise was adverse to the public interest. The question as to whether the seceded states were in the Union or out of it he regarded as not practically material, and that its discussion "could have no effect other than the mischievous one of dividing our friends." "As yet," he added, "that question is bad as the basis of a controversy, and good for nothing at all—a merely pernicious abstraction. We all agree that the seceded states, so called, are out of their proper practical relation with the Union, and that the sole object of the government, civil and military, in regard to those states, is to again get them into that proper practical relation I believe it is not only possible, but, in fact, easier to do this without deciding or even considering whether these states have ever been out of the Union, than with it. Finding themselves safely at home, it would be utterly immaterial whether they had ever been abroad. Let us all join in doing the acts necessary to restoring the proper practical relations between these states and the Union, and each forever after innocently indulge his own opinion whether, in doing the acts, he brought the states from without into the Union, or only gave them proper assistance, they never having been out of it."

The simple question with Lincoln was how best to bring the insurgent states back to their proper relation with the Union. To him this question appeared to have a solution in his amnesty proclamation.

Congress had not accepted Lincoln's plan of restoration, nor had it, except in the "Wade and Davis Bill," which had been virtually vetoed, announced any other. The only members of Congress who seemed to have any definite ideas of reconstruction were Senator Sumner and Thaddeus Stevens, who proposed to treat the Southern States as subjugated provinces. These two men stood alone, and without substantial support in either house. But, for all that, they held a high vantage-ground from the very fact that they alone presented any positive and definite method of reconstruction. Probably there had never before been a time in the history of the republic when Congress was so utterly barren of a high order of statesmanship as during and immediately after the war. The Thirty-ninth Congress was certainly not superior in this respect to its immediate predecessors. It first regular session would commence in December, and thus for eight months President Johnson was left alone in the work of reconstruction. As we have said, no fixed principles had been furnished by previous Congresses for his guidance, and he would have been confused beyond redemption if he had attempted to frame a policy in accordance with the crude and random expressions of opinion which had from time to time been made by our statesmen. He could not and ought not have accepted the sweeping theories of Sumner and Stevens.

Johnson appears at first to have followed closely the general features of the plan adopted by Lincoln. He was compelled to act. The dissolution of the Confederacy left the Southern States without any government which could be recognized by national authority. Certain movements had already been inaugurated by President Lincoln in Arkansas and Louisiana. Johnson saw no objection to the continuance of the work after the manner in which it had been begun by his predecessor. Nor was the Constitution entirely silent and inapplicable to the pressing questions of the moment. Although its framers never contemplated the existence of such a crisis, yet it contained at least one provision which in its general meaning was fully adequate to the emergency. It provides (Art. IV., Sec. 4) that "the United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and, on application of the Legislature, or of the executive (when the Legislature can not be convened), against domestic violence."

The latter clause of this constitutional provision evidently applies to cases where the government of a state is not wholly subverted or paralyzed by domestic violence. It is only the first clause which was applicable to the situation in which the states were left by the rebellion. But what was meant by "a republican form of government?" This phrase has been variously understood. Some have declared it to mean nothing definitely, and therefore every thing in an indefinite way; that it was a constitutional sanction for the establishment in a disturbed state of any government which the President and Congress might prescribe. Others have supposed that the term "republican" was simply opposed to the term "monarchical." It is clearly evident, however, that any state in the Union has a republican form of government so long and in so far as its government has not been so disturbed by any agency as to be out of harmony with the republic, *i. e.*, with the general government of the United States. The Constitution being the organic law of the United States government, it follows that the guaranty of a republican form of government to any state presupposes a case in which by some disturbing agency the government of such state has assumed a form inconsistent or out of harmony with the Constitution. It is immaterial what the nature of such disturbing agency may have been, whether it was usurpation from within or from without.

The question, therefore, naturally arises, How far had the rebellion been such a disturbing agency? The Confederate Constitution, under which the Southern state governments had been organized during the rebellion, was not materially different from the Constitution of the United States. Comparing the situation of the Southern States in 1865 with their situation in 1860, the chief difference which we find was the fact of a transferred allegiance. The simple return of these states to their allegiance to the United States would be also a resumption of a form of government which in 1860 was deemed "republican." But such a government of the Southern States as was in harmony with the Constitution in 1860 was not in harmony with the Constitution after the war. By the war all slaves had been emancipated. The Congress of the United States had passed a resolution proposing the anti-slavery constitutional amendment. It was eminently proper that the ratification of this amendment should be insisted upon as a condition of reconstruction. It was a measure rendered necessary by the war, and the acceptance of the situation by the Southern States in good faith involved the ratification. This general condition gave rise to others as incidental. The freedom of the negro race in the South involved also the equality of that race with white men before the law. It did not involve the enfranchisement of the negro, because the Constitution, even after the war, contained no provision to that effect. But in every other respect the negro must be placed upon an equality with the white man.

There was another important feature to be insisted upon by the government, and which was also a result of the national victory. This was a repudiation by the Southern States of the debt which they had incurred for treasonable purposes. The possibility of a repudiation of the national debt must also be obviated.

The emancipation of slaves introduced still another element. Before the war representation was apportioned among the several states "according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons." But after the war all persons were declared free. The "other persons" no longer existed. Thus the entire negro population of the South would be counted in the basis of representation, and the Southern States would, by emancipation, gain a political advantage which they did not have before the war. It was therefore proper that a new adjustment of the basis of representation should be insisted upon as an incidental condition of the situation arising out of emancipation. It ought also have been distinctly and permanently settled that there should be no compensation for emancipation.

Thus the allegiance demanded of the insurgent states was not simply that from which they had departed. They had made war upon the nation, and this conflict had not been without consequences, the principal of which were a Confederate debt, a National debt, and Emancipation. If the Confederacy had been victorious, it would have gained its independence—its recognition as a separate nation. Its defeat was not simply a forfeiture of this independence, but it involved submission to several important conditions, imposed, not as terms to a vanquished foe, not as penalties for treason, but for the security of the nation. Under these circumstances, a republican form of government in the disturbed states involved the acceptance by the latter of the following conditions:

1. Nullification of the theory of secession.
2. Repudiation of the Confederate debt.
3. Security of the national debt.
4. Ratification of emancipation, waiving all claim to pecuniary compensation.
5. Readjustment of the basis of representation.
6. Concession of civil rights to the colored race.
7. Disfranchisement of leading traitors for such time as Congress might deem expedient.

When it is considered that the nation could in justice demand indemnity for the national debt caused by the war, and the punishment of leading traitors, these conditions could not be considered harsh or unreasonable. Every one of them ought to have been embodied by Congress in the form of a constitutional amendment. Many of them demanded congressional sanction, and could not be imposed by the President alone. It was therefore Johnson's duty to have called the Thirty-ninth Congress together in special session to meet this new emergency. His failure to do this was a blunder from which his administration never recovered.

The President proceeded to his work alone. On the 29th of May, 1865, he issued his amnesty proclamation, granting pardon to all who had participated in the rebellion, with restoration of property except as to slaves, and except in cases where legal proceedings had been instituted under the laws

of the United States providing for the confiscation of property. From the benefits of this proclamation the following classes were excepted:

1. All who are or shall have been pretended civil or diplomatic officers, or otherwise domestic or foreign agents of the pretended Confederate government.

2. All who left judicial stations under the United States to aid the rebellion.

3. All who shall have been military or naval officers of said pretended Confederate government above the rank of colonel in the army or lieutenant in the navy.

4. All who left seats in the Congress of the United States to aid the rebellion.

5. All who resigned or tendered resignations of their commissions in the army or navy of the United States to evade duty in resisting the rebellion.

6. All who have engaged in any way in treating otherwise than lawfully as prisoners of war persons found in the United States service as officers, soldiers, seamen, or in other capacities.

7. All persons who have been or are absentees from the United States for the purpose of aiding the rebellion.

8. All military and naval officers in the rebel service who were educated by the government in the Military Academy at West Point or the United States Naval Academy.

9. All persons who held the pretended offices of governors of states in insurrection against the United States.

10. All persons who left their homes within the jurisdiction and protection of the United States, and passed beyond the Federal military lines into the so-called Confederate States, for the purpose of aiding the rebellion.

11. All persons who have been engaged in the destruction of the commerce of the United States upon the high seas, and all persons who have made raids into the United States from Canada, or been engaged in destroying the commerce of the United States upon the lakes and rivers that separate the British Provinces from the United States.

12. All persons who, at the time when they seek to obtain the benefits hereof by taking the oath herein prescribed, are in military, naval, or civil confinement or custody, or under bonds of the civil, military, or naval authorities or agents of the United States as prisoners of war, or persons detained for offenses of any kind either before or after conviction.

13. All persons who have voluntarily participated in said rebellion, and the estimated value of whose taxable property is over twenty thousand dollars.

14. All persons who have taken the oath of amnesty as prescribed in the President's proclamation of December 8, A.D. 1863, or an oath of allegiance to the government of the United States since the date of said proclamation, and who have not thenceforward kept and maintained the same inviolate—provided that special application may be made to the President for pardon by any person belonging to the excepted classes, and such clemency will be liberally extended as may be consistent with the facts of the case and the peace and dignity of the United States.

Johnson had, on the 9th of May, re-established by an executive order the authority of the United States in the State of Virginia. The Secretary of the Treasury was instructed to nominate for appointment assessors of taxes, and collectors of customs and internal revenue, and all other officers necessary to put in execution the revenue laws; the Postmaster General was directed to establish post-offices and post-routes, and put in execution the postal laws; the Federal Courts were re-established; the Secretary of War was ordered to assign the necessary provost-marshal generals and provost-marshals, and the Secretary of the Navy to take possession of all public property belonging to the Navy Department. The acts of the political, military, and civil organizations of the state during the war were declared null and void, and Francis H. Pierpont was recognized as the lawful governor.[1]

On the same day that he issued his Amnesty Proclamation, Johnson appointed William W. Holden Provisional Governor of North Carolina. He declared it to be the duty of the provisional governor to prescribe at the earliest practicable period the rules and regulations for the assembling of a Convention, to be chosen by the loyal people of North Carolina, for the purpose of amending the state Constitution. No person could be an elector or member of such Convention unless he should have previously taken the amnesty oath, and should be a qualified voter by the laws of the state. The heads of departments were directed to resume their respective relations with the state, and the Federal Courts were re-established as in Virginia.[1]

The instructions to the heads of departments, and for the re-establishment of Federal Courts, were the same as in the case of Virginia.

During the months of June and July, similar provisional governments were established in all the other insurgent states except Louisiana, Arkansas, and Tennessee. On the 13th of June William L. Sharkey was appointed Provisional Governor of Mississippi; on the 19th, James Johnson, of Georgia, and Andrew J. Hamilton, of Texas; on the 21st, Lewis E. Parsons, of Alabama; on the 30th, Benjamin F. Perry, of South Carolina; and on July 13th, William Marvin, of Florida.

In all these cases only loyal men were allowed to become electors or members of the several Conventions, and the heads of departments were instructed to give the preference to qualified loyal men in the distribution of offices, and where such were not to be obtained in the several states they were to be appointed from other states. Neither in the Amnesty Proclamation, nor in those establishing provisional governments, was any intimation given as to what actions would be required of the several states in order to insure the recognition of their governments by the United States as republican in form.

In Louisiana, J. Madison Wells, who had succeeded Michael Hahn, March 4th, 1865, was recognized and sustained by President Johnson as the lawful governor of the state. In like manner, William G. Brownlow, elected March 4th, 1865, was recognized as Governor of Tennessee; and Isaac Murphy, elected March 14, 1864, as Governor of Arkansas. In these three states, movements toward reconstruction were already at an advanced stage under President Lincoln's administration. In each of them loyal state governments existed, with a Constitution abolishing slavery; but these governments did not rest upon a popular majority. They were instituted and put in operation during the war, at a time when large portions of the territory over which they had jurisdiction were within the control of the Confederacy, and they had not as yet received the sanction of the United States Congress.

On the 23d of June the President rescinded the blockade, and on the 29th of August removed all restrictions upon internal, domestic, and coastwise commerce, so that articles declared by previous proclamations to be contraband of war might be imported into or sold in the insurgent states, "subject only to such regulations as the Secretary of the Treasury may prescribe." On the 11th of October he released John A. Campbell, of Alabama; John H. Reagan, of Texas; Alexander H. Stephens, of Georgia; George A. Trenholm, of South Carolina, and Charles Clark, of Mississippi, from confinement upon their parole to answer any charge which might be preferred against them, and to abide in their respective states until farther orders. On the 12th of October martial law was suspended in Kentucky, and on the 1st of December the suspension of *habeas corpus* was annulled except in the states of Virginia, Kentucky, Tennessee, North Carolina, Georgia, Florida, Alabama, Mississippi, Lousiana, Arkansas, and Texas, the District of Columbia, and the Territories of New Mexico and Arizona.

Before the assembling of the Thirty-ninth Congress, each of the states in

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[1] "Executive Chamber, Washington City, May 9, 1865.

"ORDERED—*First*. That all acts and proceedings of the political, military, and civil organizations which have been in a state of insurrection and rebellion within the State of Virginia against the authority and laws of the United States, and of which Jefferson Davis, John Letcher, and William Smith were late the respective chiefs, are declared null and void. All persons who shall exercise, claim, pretend, or attempt to exercise any political, military, or civil power, authority, jurisdiction, or right by, through, or under Jefferson Davis, late of the city of Richmond, and his confederates, or under John Letcher or William Smith and their confederates, or under any pretended political, military, or civil commission or authority issued by them, or either of them, since the 17th day of April, 1861, shall be deemed and taken as in rebellion against the United States, and shall be dealt with accordingly.

"*Second*. That the Secretary of State proceed to put in force all laws of the United States, the administration whereof belongs to the Department of State, applicable to the geographical limits aforesaid.

"*Third*. That the Secretary of the Treasury proceed without delay to nominate for appointment assessors of taxes, and collectors of customs and internal revenue, and such other officers of the Treasury Department as are authorized by law, and shall put into execution the revenue laws of the United States within the geographical limits aforesaid. In making appointments, the preference shall be given to qualified loyal persons residing within the districts where their respective duties are to be performed. But if suitable persons shall not be found residents of the districts, then persons residing in other states or districts shall be appointed.

"*Fourth*. That the Postmaster General shall proceed to establish post-offices and post-routes, and put into execution the postal laws of the United States within the said state, giving to loyal residents the preference of appointment. But if suitable persons are not found, then to appoint agents, etc., from other states.

"*Fifth*. That the district judge of said district proceed to hold courts within said state, in accordance with the provisions of the acts of Congress. The Attorney General will instruct the proper officers to libel and bring to judgment, confiscation, and sale property subject to confiscation, and enforce the administration of justice within said state in all matters civil and criminal within the cognizance and jurisdiction of the Federal Courts.

"*Sixth*. That the Secretary of War assign such assistant provost-marshal general, and such provost-marshals in each district of said state as he may deem necessary.

"*Seventh*. The Secretary of the Navy will take possession of all public property belonging to the Navy Department within said geographical limits, and put in operation all acts of Congress in relation to naval affairs having application to the said state.

"*Eighth*. The Secretary of the Interior will also put in force the laws relating to the Department of the Interior.

"*Ninth*. That to carry into effect the guarantee of the Federal Constitution of a republican form of state government, and afford the advantage and security of domestic laws, as well as to complete the re-establishment of the authority of the laws of the United States, and the full and complete restoration of peace within the limits aforesaid, Francis H. Pierpont, Governor of the State of Virginia, will be aided by the Federal government, so far as may be necessary, in the lawful measures which he may take for the extension and administration of the state government throughout the geographical limits of said state.

"In testimony whereof, I have hereunto set my hand and caused the seal of the United [L. S.] States to be affixed. ANDREW JOHNSON.

"By the President: W. HUNTER, Acting Secretary of State."

[1] "*Whereas*, The fourth section of the fourth article of the Constitution of the United States declares that the United States shall guarantee to every state in the Union a republican form of government, and shall protect each of them against invasion and domestic violence; *and whereas* the President of the United States is, by the Constitution, made commander-in-chief of the army and navy, as well as chief civil executive officer of the United States, and is bound by solemn oath faithfully to execute the office of President of the United States, and to take care that the laws be faithfully executed; *and whereas* the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the government thereof in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has, in its revolutionary progress, deprived the people of the State of North Carolina of all civil government; *and whereas* it becomes necessary and proper to carry out and enforce the obligations of the United States to the people of North Carolina in securing them in the enjoyment of a republican form of government:

"Now, therefore, in obedience to the high and solemn duties imposed upon me by the Constitution of the United States, and for the purpose of enabling the loyal people of said state to organize a state government, whereby justice may be established, domestic tranquillity restored, and loyal citizens protected in all their rights of life, liberty, and property, I, Andrew Johnson, President of the United States and Commander-in-chief of the Army and Navy of the United States, do hereby appoint William W. Holden Provisional Governor of the State of North Carolina, whose duty it shall be, at the earliest practicable period, to prescribe such rules and regulations as may be necessary and proper for convening a Convention composed of delegates to be chosen by that portion of the people of said state who are loyal to the United States, and no others, for the purpose of altering and amending the Constitution thereof; and with authority to exercise within the limits of said state all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said state to its constitutional relations to the Federal government, and to present such a republican form of state government as will entitle the state to the guarantee of the United States therefor, and its people to protection by the United States against invasion, insurrection, and domestic violence. Provided that in any election that may be held hereafter for choosing delegates to any state Convention as aforesaid, no person shall be qualified as an elector or shall be eligible as a member of such Convention unless he shall have previously taken and subscribed the oath of amnesty as set forth in the President's proclamation of May 29, A.D. 1865, and is a voter qualified as prescribed by the Constitution and laws of the State of North Carolina in force immediately before the 20th day of May, 1861, the date of the so-called Ordinance of Secession. And the said Convention, when convened, or the Legislature that may be thereafter assembled, will prescribe the qualification of electors and the eligibility of persons to hold office under the Constitution and laws of the state—a power the people of the several states composing the Federal Union have rightfully exercised from the origin of the government to the present time."

which provisional governments had been established had elected and held its Convention and had also inaugurated a permanent government, displacing the provisional, under the auspices of President Johnson. In all cases the Ordinance of Secession was either annulled or repealed by the state Conventions, and slavery was forever prohibited. In the Georgia Convention, there was incorporated in the ordinance abolishing slavery a provision that this acquiescence in the action of the government of the United States was not intended to operate as a relinquishment of any claim made by the citizens of that state for compensation. The constitutional amendment was also ratified by the new Legislatures except in the case of Mississippi. In Alabama, South Carolina, and Florida, the ratification was made with the understanding that the clause giving Congress the power to carry out the provisions of the amendment by appropriate legislation did not give that body the right to legislate as to the political status of the freedmen.[1] The Confederate debt was also repudiated in every state save South Carolina, whose Legislature adjourned before taking final action on this subject.

The legislation in regard to freedmen seemed to have for its object the perpetuation of the spirit of slavery after its body had been decently buried. Some of the enactments passed by the various Legislatures were judicious and benevolent, but most of them were expressly designed to establish a distinction of caste between the white and the colored race. While, on the one hand, the right to sue and be sued, and to give testimony in all cases where their own interests were involved, was granted to the negroes, and marriage was legalized among them, on the other the penal code in nearly all the states abounded with oppressive distinctions against the colored race. By emancipation a very large proportion of the freedmen were left in a dependent condition, which demanded instant relief through a generous and well-considered system for the reorganization of the Southern system of labor on the principles of freedom. But, instead of the establishment of such a system, a deliberate scheme was planned to take advantage of the unfavorable condition of the negro by an enactment that all freedmen having no visible means of support should be regarded as vagrants and bound to apprenticeship. Every effort was also made to prevent any organization of the freedmen for their own relief, and making it a misdemeanor for whites to assemble or associate with them.[2] Some of this legislation was so oppressive to the freedmen that it was annulled by the order of military commanders.

It was evident that the late Confederate States misunderstood their situation. President Johnson had thrown upon them the burden of reconstruction, and properly it belonged to them. They, in turn, ought to have shown their good faith by the prompt and voluntary fulfillment of all the con-

[1] The following persons were elected permanent governors of the several states: Jonathan Worth, of North Carolina; Benjamin G. Humphreys, of Mississippi; Charles J. Jenkins, of Georgia; R. M. Patton, of Alabama; James L. Orr, of South Carolina; Andrew J. Hamilton, of Texas; and D. S. Walker, of Florida.

[2] The legislation in regard to freedmen may be briefly epitomized in a few paragraphs.

North Carolina.—March 10, 1866, an act was passed declaring that one eighth part of African blood constituted a person a negro. It provided that, so soon as jurisdiction in matters relating to freedmen should be committed to the courts of the state, negroes should have all the privileges of white men in the prosecution of suits, and be eligible as witnesses in cases involving their own interests. It extended the criminal laws to all persons, making no distinction in punishment except for rape, which, if committed upon a white female, was made a capital crime for a black. It legalized marriages contracted during slavery. All contracts, to which one of the parties was a colored person, for the sale or purchase of any horse, mule, jennet, ass, neat cattle, hog, sheep, or goat, whatever the value, and in the case of other articles contracts involving the value of ten dollars, were declared void, except when made in writing, and witnessed by a white person who could read and write. Marriages between whites and blacks were forbidden.

Mississippi.—November 22, 1865, an act was passed to regulate the relation of master and apprentice relative to freedmen. It provided for the apprenticeship to suitable persons, former masters being preferred, of all freedmen under the age of 18 who are orphans, or who are not supported by their parents, to be bound in the case of males till the age of 21, and to the age of 18 in case of females. Power was given to the masters to inflict moderate corporal punishment. Where the age of the freedman was uncertain, it could be fixed by the judge of the county clerk.

November 24, 1865, the vagrant act was passed.

Section 2 provides that all freedmen, free negroes, and mulattoes in this state, over the age of 18 years, found on the second Monday in January, 1866, or thereafter, with no lawful employment or business, or found unlawfully assembling themselves together, either in the day or night time, and all white persons so assembling with freedmen, free negroes, or mulattoes, or usually associating with freedmen, free negroes, or mulattoes on terms of equality, or living in adultery or fornication with a freedwoman, free negro, or mulatto, shall be deemed vagrants, and on conviction thereof shall be fined in the sum of not exceeding, in the case of a freedman, free negro, or mulatto, fifty dollars, and a white man two hundred dollars, and imprisoned at the discretion of the court, the free negro not exceeding ten days, and the white man not exceeding six months.

Section 5 provided that all negroes failing to pay any fine or forfeiture imposed should be hired out, or, if that were impossible, should be treated as paupers.

Section 6 provided that a tax not exceeding one dollar should be levied upon every negro between the ages of 18 and 60 to make up a "freedmen's pauper fund."

November 25, 1865, an act was passed to confer civil rights upon freedmen.

Section 1 provided that negroes might sue and be sued, and acquire personal property, but should not be allowed to rent or lease any lands or tenements except in incorporated towns and cities, in which places the corporate authorities should be the controlling powers.

Section 2 provided for the intermarriage of negroes, the clerk of probate to keep separate records of the same.

Section 3 declared intermarriage between whites and negroes a felony, to be punished by imprisment for life.

Section 4 gave negroes the right to give testimony in cases where negroes were plaintiffs or defendants.

Section 5 provided that on the second Monday of January, 1866, every negro must have a lawful home or employment, and must have either a license to do irregular and job work, or a written contract for regular labor.

Section 6 provided that negroes quitting the service of employers without good cause before the expiration of their written contract should forfeit their wages.

November 29, 1865, an act was passed prohibiting negroes not in the military service of the United States to "keep or carry arms of any kind, or any ammunition, dirk, or bowie knife." Upon conviction for this event, the penalty was a fine of ten dollars and forfeiture of the weapons. Section 4 of this act provided that all the penal and criminal laws in force in that state "defining offenses and prescribing the mode of punishment for crimes and misdemeanors committed by slaves, free negroes, or mulattoes," were thereby re-enacted, and declared in full force as against freedmen.

Georgia.—December 15, 1865, negroes were made competent witnesses in cases to which freedmen were parties, and marriages between persons of color were legalized.

March 12, 1866, all vagrants or persons leading an immoral or profligate life were made subject to fine, imprisonment, or forced labor for one year, or to be bound out for one year in apprenticeship.

March 17, 1865, it was enacted that persons of color should have the right to make and enforce contracts, to sue and be sued, to give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and that they should not be subjected to any other or different punishment for the commission of any offense than such as were prescribed for white persons committing the same.

Alabama.—December, 1865, a bill was passed "making it unlawful for any freedman, mulatto, or free person of color to own fire-arms, or carry about his person a pistol or other deadly weapon," under a penalty of one hundred dollars fine or three months' imprisonment.

December 9, 1865, it was enacted that negroes and mulattoes should have the right to sue and be sued, and to testify in cases in which negroes were parties.

Early in 1866 Governor Patton vetoed three bills. One of these provided for the regulation of contracts with freedmen, for which the governor thought no special law was necessary. "Information," said he, "from various parts of the state shows that negroes are every where making contracts for the present year upon terms that are entirely satisfactory to the employers. They are also entering faithfully upon the discharge of the obligations contracted. There is every prospect that the engagement formed will be observed with perfect good faith. I therefore think that special laws for regulating contracts between whites and freedmen would accomplish no good, and might result in much harm." He also vetoed a bill extending the criminal laws of the state (which were applicable to free persons of color) to freedmen. The bill applied to the freedmen a system of laws enacted for free negroes in a community where slavery existed. "I have," said the governor, "carefully examined the laws which, under this bill, would be applied to the freedmen, and I think that a mere recital of some of their provisions will show the impolicy and injustice of enforcing them upon the negroes in their new condition." Governor Patton also vetoed "a bill entitled an act to regulate the relations of master and apprentice as relate to freedmen, free negroes, and mulattoes," because he deemed the present laws amply sufficient for all purposes of apprenticeship, without operating upon a particular class of persons.

South Carolina.—October 19, 1865, an act was passed providing that the statutes and regulations concerning slaves were now inapplicable to persons of color. Negroes, though not entitled to social or political equality with white persons, were allowed the right to acquire, own, and dispose of property, to make contracts, to enjoy the fruits of their labor, and to sue and be sued.

December 19, 1865, an act was passed amending the criminal law.

Section 1 provided "that either of the crimes specified in this first section shall be felony, without benefit of clergy, to wit: For a person of color to commit any willful homicide, unless in self-defense; for a person of color to commit an assault upon a white woman with manifest intent to ravish her; for a person of color to have sexual intercourse with a white woman by personating her husband; for any person to raise an insurrection or rebellion in this state; for any person to furnish arms or ammunition to other persons who are in a state of actual insurrection or rebellion, or permit them to resort to his house for advancement of their evil purpose; for any person to administer, or cause to be taken by any other person, any poison, chloroform, soporific, or other destructive thing, or to shoot at, stab, cut, or wound any other person, or by any means whatsoever to cause bodily injury to any other person, whereby, in any of these cases, a bodily injury dangerous to the life of any other person is caused, with intent, in any of these cases, to commit the crime of murder, or the crime of rape, or the crime of robbery, burglary, or larceny; for any person who had been transported under sentence to return to the state within the period of prohibition contained in the sentence; or for a person to steal a horse or mule, or cotton packed in a bale ready for market."

Section 10 provided "that a person of color who is in the employment of a master engaged in husbandry shall not have the right to sell any corn, rice, peas, wheat, or other grain, any flour, cotton, fodder, hay, bacon, fresh meat of any kind, poultry of any kind, animal of any kind, or any other product of a farm, without having written evidence from such master, or some person authorized by him, or from the district judge or a magistrate, that he has the right to sell such product; and if any person shall, directly or indirectly, purchase any such product from such person of color without such written evidence, the purchaser and seller shall each be guilty of a misdemeanor."

Section 13 declared that negroes should constitute no part of the state militia, and that they should not be permitted to keep fire-arms, except in the case of farm owners, who were allowed to keep a shot-gun or rifle.

Section 22 provided that no person of color should migrate into and reside in South Carolina unless within 20 days after his arrival he should enter into a bond in a penalty of $1000 dollars, with two good freeholders as security, for his good behavior and support.

December 21. "*An act to establish and regulate the domestic relations of persons of color, and to amend the law in relation to paupers and vagrancy,*" establishes the relation of husband and wife, declares those now living as such to be husband and wife, and provides that persons of color desirous hereafter to marry shall have the contract duly solemnized. A parent may bind his child over two years of age as an apprentice to serve till 21 if a male, 18 if a female. All persons of color who make contracts for service or labor shall be known as servants, and those with whom they contract as masters.

"Colored children between 18 and 21, who have neither father nor mother *living in the district in which they are found*, or whose parents are paupers, or unable to afford them a comfortable maintenance, *or whose parents are not teaching them habits of industry and honesty*, or are persons of notoriously bad character, or are vagrants, or have been convicted of infamous offenses, and colored children, *in all cases where they are in danger of moral contamination*, may be bound as apprentices by the district judge or one of the magistrates for the aforesaid term."

It "provides that no person of color shall pursue or practice the art, trade, or business of an artisan, mechanic, or shopkeeper, or any other trade, employment, or business (besides that of husbandry, or that of a servant under a contract for service or labor), on his own account and for his own benefit, or in partnership with a white person, or as agent or servant of any person, until he shall have obtained a license therefor from the judge of the District Court, which license shall be good for one year only. This license the judge may grant upon petition of the applicant, and upon being satisfied of his skill and fitness, and of his good moral character, and upon payment by the applicant to the clerk of the District Court of one hundred dollars if a shopkeeper or peddler, to be paid annually, and ten dollars if a mechanic, artisan, or to engage in any other trade, also to be paid annually.

Florida.—January 11, 1866, an act was passed providing that the judicial tribunals of the state should be accessible to all persons without distinction of color, and repealing all laws heretofore passed with reference to slaves, free negroes, and mulattoes, except the acts to prevent their migration into the state and the sale to them of fire-arms.

January 11, 1866, an act was passed legalizing the marriage relation among persons of color.

January 12, 1866, an act was passed in relation to contracts, similar in its provisions to those enacted by the other states.

January 15, 1866, it was enacted "that if any negro, mulatto, or other person of color shall intrude himself into any religious or other public assembly of white persons, or into any railroad car or other public vehicle set apart for the exclusive accommodation of white people, he shall be deemed to be guilty of a misdemeanor, and upon conviction shall be sentenced to stand in the pillory for one hour, or be whipped not exceeding thirty-nine stripes, or both, at the discretion of the jury; nor shall it be lawful for any white person to intrude himself into any religious or other public assembly of colored persons, or into any railroad car or other public vehicle set apart for the exclusive accommodation of persons of color, under the same penalties."

Virginia.—Early in 1866 a vagrant act was passed providing that vagrants should be hired out for a period of three months.

Tennessee.—1866, January 25, this bill became a law:

"That persons of African and Indian descent are hereby declared to be competent witnesses in all the courts of this state, in as full a manner as such persons are by an act of Congress competent witnesses in all the courts of the United States, and all laws and parts of laws of the state excluding such persons from competency are hereby repealed: *Provided, however*, That this act shall not be so construed as to give colored persons the right to vote, hold office, or sit on juries in this state; and that this provision is inserted by virtue of the provision of the 9th section of the amended Constitution, ratified February 22, 1865."

May 26, this bill became a law:

"An act to define the term 'persons of color,' and to declare the rights of such persons.

"SEC. 1. That all negroes, mulattoes, mestizoes, and their descendants, having any African blood in their veins, shall be known in this state as 'persons of color.'

"SEC. 2. That persons of color shall have the right to make and enforce contracts, to sue and be sued, to be parties and give evidence, to inherit, and to have full and equal benefits of all laws and proceedings for the security of person and estate, and shall not be subject to any other or different punishment, pains, or penalty for the commission of any act or offense than such as are prescribed for white persons committing like acts or offenses.

"SEC. 3. That all persons of color, being blind, deaf and dumb, lunatics, paupers, or apprentices, shall have the full and perfect benefit and application of all laws regulating and providing for white persons, being blind, or deaf and dumb, or lunatics or paupers, or either (in asylums for their benefit), and apprentices.

"SEC. 4. That all acts, or parts of acts or laws inconsistent herewith, are hereby repealed: *Provided*, That nothing in this act shall be so construed as to admit persons of color to serve on a jury; *And provided further*, That the provisions of this act shall not be so construed as to require the education of colored and white children in the same school.

"SEC. 5. That all free persons of color who were living together as husband and wife in this state while in a state of slavery are hereby declared to be man and wife, and their children legitimately entitled to an inheritance in any property heretofore acquired, or that may be hereafter acquired by said parents, to as full an extent as the children of white citizens are now entitled by the existing laws of this state."

May 26, all the freedmen's courts in Tennessee were abolished by the assistant commander, the law of the state making colored persons competent witnesses in all civil courts.

Louisiana.—An act was passed in relation to vagrants, providing that the latter, failing to obtain security for good behavior and industry, should be hired out for a period of twelve months.

ditions necessary to restoration. It was not expected that their military defeat would result in their conversion from secession to loyalty, but it seemed certain that the war must at least have convinced them of their folly. It did so to some extent, but it did not bring them wisdom. They appeared determined to do as little as possible to show their appreciation of the significance of the conflict which had gone against them. It was only at the earnest solicitation of the President that certain states repudiated their rebel debt. The manner in which they abolished slavery, with "inasmuches," "ifs," and "buts," showed their reluctance and their desire to find some possible chance of evasion.

Johnson was disappointed. He had calculated upon very different action. He knew that the people would not be satisfied with this half-hearted, evasive sort of allegiance. In his correspondence with the provisional governors he had scarcely been able to conceal his impatience on account of the manner in which the Southern States were moving. Some features of the criminal code adopted by these states seemed to him exceedingly unsatisfactory. He almost begged them to be sensible, and not to neglect the opportunity which had been so generously offered them; but he pleaded in vain. He knew that every mistake made by these states in the movement which he had inaugurated would give force and plausibility to the theories which such men as Stevens, Sumner, and Wendell Phillips were urging upon the country. It is probable that the Southern States still retained a vivid remembrance of the persistent efforts made in their behalf, even while they were in armed rebellion, by the Northern faction led by Seymour, Vallandigham, Pendleton, Long, Bayard, and a host of others, and that, exaggerating the power of this faction, they hoped by union and co-operation with it to obtain in the political arena what they had lost on the field of battle. It is difficult upon any other hypothesis to understand the attitude which they now so defiantly assumed.

The constitutional amendment abolishing slavery had been ratified by the requisite number of states, and on the 18th of December, 1865, Secretary Seward publicly announced this fact, certifying the validity of the amendment "to all intents and purposes as a part of the Constitution of the United States."[1]

The Thirty-ninth Congress was convened at Washington December 4, 1865.[2] The Senate was organized with Lafayette S. Foster as President *pro tempore*. He had been chosen for this position in the extra session of the Senate, and thus became acting Vice-President of the United States. He had been a senator from Connecticut since 1855, and was eminently fitted both by natural qualities and by experience for the duties of a presiding officer. In the House, the members were called to order by the clerk, Edward McPherson, of Pennsylvania. The office of clerk of the House at this time was beset with difficulties of the most delicate nature. By law, his decision as to the members who might be properly placed upon the call-roll and take part in the organization of the House was absolute. By one party it was claimed that for him to exclude the names of Southern members was an assumption on his part of the right to reject members before they had been rejected by the House. By another party it was claimed that, by including those names, McPherson would equally anticipate the action of Congress by presuming to accept members before the House had acted in the matter. McPherson very wisely concluded to let the matter rest exactly where he found it. The members from the Southern States had not been admitted, and there were peculiar circumstances incident to their election which did not usually exist in ordinary cases. He determined, therefore, to leave the whole subject to Congress. It is evident, also,

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[1] "*To all to whom these presents may come, greeting:*

"Know ye, that whereas the Congress of the United States, on the 1st of February last, passed a resolution which is in the words following, namely: 'A resolution submitting to the Legislatures of the several states a proposition to amend the Constitution of the United States.

"'*Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled (two thirds of both houses concurring)*, That the following article be proposed to the Legislatures of the several states as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid, to all intents and purposes, as a part of the said Constitution, namely:

"'ARTICLE XIII.

"'SEC. 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

"'SEC. 2. Congress shall have power to enforce this article by appropriate legislation.'

"*And whereas* it appears from official documents on file in this department that the amendment to the Constitution of the United States, proposed as aforesaid, has been ratified by the Legislatures of the states of Illinois, Rhode Island, Michigan, Maryland, New York, West Virginia, Maine, Kansas, Massachusetts, Pennsylvania, Virginia, Ohio, Missouri, Nevada, Indiana, Louisiana, Minnesota, Wisconsin, Vermont, Tennessee, Arkansas, Connecticut, New Hampshire, South Carolina, Alabama, North Carolina, and Georgia—in all, twenty-seven states;

"*And whereas* the whole number of states in the United States is thirty-six; *and whereas* the before specially-named states, whose Legislatures have ratified the said proposed amendment, constitute three fourths of the whole number of states in the United States:

"Now, therefore, be it known that I, William H. Seward, Secretary of State of the United States, by virtue and in pursuance of the second section of the act of Congress approved the twentieth of April, eighteen hundred and eighteen, entitled 'An Act to provide for the publication of the Laws of the United States and for other purposes,' do hereby certify that the amendment aforesaid has become valid, to all intents and purposes, as part of the Constitution of the United States.

"In testimony whereof I have hereunto set my hand and caused the seal of the Department of State to be affixed.

"Done at the City of Washington, this eighteenth day of December, in the year of our Lord one thousand eight hundred and sixty-five, and of the Independence of the United States of America the ninetieth. [L. S.] WILLIAM H. SEWARD, Secretary of State."

[New Jersey, Oregon, California, and Iowa ratified subsequently to the date of this certificate, as did Florida in the same form as South Carolina and Alabama.]

[2] The following is a list of the members of this Congress. Those marked with an asterisk were new members:

SENATE.

California—James A. McDougall, John Conness.
Connecticut—Lafayette S. Foster, James Dixon.
Delaware—George Read Riddle, Willard Saulsbury.
Illinois—Lyman Trumbull, Richard Yates.*
Indiana—Henry S. Lane, Thomas A. Hendricks.
Iowa—James W. Grimes, Samuel J. Kirkwood.*
Kansas—Samuel C. Pomeroy, James H. Lane.
Kentucky—Garret Davis, James Guthrie.*
Maine—Lot M. Morrill, William Pitt Fessenden.*
Massachusetts—Charles Sumner, Henry Wilson.
Maryland—John A. J. Creswell,* Reverdy Johnson.
Michigan—Zachariah Chandler, Jacob M. Howard.
Minnesota—Alexander Ramsay, Daniel S. Norton.*
Missouri—B. Gratz Brown, John B. Henderson.
Nevada—William M. Stewart,* James W. Nye.*
New Hampshire—Daniel Clerk, Aaron H. Cragin.*
New Jersey—William Wright, John P. Stockton.*
New York—Ira Harris, Edwin D. Morgan.
Ohio—John Sherman, Benjamin F. Wade.
Oregon—James W. Nesmith, George H. Williams.*
Pennsylvania—Edgar Cowan, Charles R. Buckalew.
Rhode Island—William Sprague, Henry B. Anthony.
Tennessee—David D. Patterson,* J. S. Fowler.*
Vermont—Luke P. Poland,* Solomon Foot.
West Virginia—Peter G. Van Winkle, Waitman T. Willey.
Wisconsin—Timothy O. Howe, James R. Doolittle.

HOUSE.

California—Donald C. McRuer,* William Higby, John Bidwell.*
Connecticut—Henry C. Deming, Samuel L. Warner,* Augustus Brandegee, John H. Hubbard.
Delaware—John A. Nicholson.*
Illinois—John Wentworth,* John F. Farnsworth, Elihu B. Washburne, Abner C. Harding, Ebon C. Ingersoll, Burton C. Cook,* H. P. H. Bromwell,* Shelby M. Cullom,* Lewis W. Ross, Anthony Thornton,* Samuel S. Marshall,* Jehu Baker,* Andrew J. Kuykendall,* at large, S. W. Moulton.*
Indiana—William E. Niblack,* Michael C. Kerr,* Ralph Hill,* John H. Farquhar,* George W. Julian, Ebenezer Dumont, Daniel W. Voorhees,* Godlove S. Orth, Schuyler Colfax, Joseph H. Defrees,* Thomas N. Stillwell.*
Iowa—James F. Wilson, Hiram Price, William B. Allison, Josiah B. Grinnell, John A. Kasson, Asahel W. Hubbard.
Kansas—Sidney Clarke.*
Kentucky—L. S. Trimble,* Burwell C. Ritter,* Henry Grider, Aaron Harding, Lovell H. Rousseau,* Green Clay Smith, George S. Shanklin,* William H. Randall, Samuel McKee.*
Maine—John Lynch,* Sidney Perham, James G. Blaine, John H. Rice, Frederick A. Pike.
Maryland—Hiram McCullough, John L. Thomas, Jr.,* Charles E. Phelps,* Francis Thomas, Benjamin G. Harris.
Massachusetts—Thomas D. Eliot, Oakes Ames, Alexander H. Rice, Samuel Hooper, John B. Alley, Nathaniel P. Banks,* George S. Boutwell,* John D. Baldwin, William B. Washburn, Henry L. Dawes.
Michigan—Fernando C Beaman, Charles Upson, John W. Longyear, Thomas W. Ferry,* Rowland E. Trowbridge,* John F. Driggs.
Minnesota—William Windom, Ignatius Donnelly.
Missouri—John Hogan,* Henry T. Blow, Thomas E. Noell,* John R. Kelso,* Joseph W. McClurg, Robert T. Van Horn,* Benjamin F. Loan, John F. Benjamin,* George W. Anderson.*
Nevada—Delos R. Ashley.*
New Hampshire—Gilman Marston,* Edward H. Rollins, James W. Patterson.
New Jersey—John F. Starr, William A. Newell,* Charles Sitgreaves,* Andrew J. Rogers, Edwin R. V. Wright.*
New York—Stephen Tabor,* Tunis G. Bergen,* James Humphrey,* Morgan Jones,* Nelson Taylor,* Henry J. Raymond,* John W. Chanler, James Brooks, William A. Darling,* William Radford, Charles H. Winfield, John H. Ketcham,* Edwin N. Hubbell,* Charles Goodyear,* John A. Griswold,* Robert S. Hale,* Calvin T. Hulburd, James M. Marvin, Demas Hubbard, Jr.,* Addison H. Laflin,* Roscoe Conkling,* Sidney T. Holmes,* Thomas T. Davis, Theodore M. Pomeroy, Daniel Morris, Giles W. Hotchkiss, Hamilton Ward,* Roswell Hart,* Burt Van Horn,* James M. Humphrey, Henry Van Aernam.*
Ohio—Benjamin Eggleston, Rutherford B. Hayes,* Robert C. Schenck, William Lawrence,* F. C. Le Blond, Reader W. Clark,* Samuel Shellabarger,* James H. Hubbell,* Ralph P. Buckland,* James M. Ashley, Hezekiah S. Bundy,* William E. Finck, Columbus Delano,* Martin Welker,* Tobias E. Plants,* John A. Bingham,* Ephraim R. Eckley, Rufus P. Spalding, James A. Garfield.
Oregon—John H. D. Henderson.*
Pennsylvania—Samuel J. Randall, Charles O'Neill, Leonard Myers, William D. Kelley, M. Russell Thayer, B. Markley Boyer,* John M. Broomall, Sydenham E. Ancona, Thaddeus Stevens, Myer Strouse, Philip Johnson, Charles Denison, Ulysses Mercur,* George F. Miller,* Adam J. Glossbrenner,* William H. Koontz,* Abraham A. Barker,* Stephen F. Wilson,* Glenni W. Schofield, Charles Vernon Culver,* John L. Dawson, James K. Moorhead, Thomas Williams, George V. Lawrence.*
Rhode Island—Thomas A. Jenckes, Nathan F. Dixon.
Tennessee—Nathaniel G. Taylor,* Horace Maynard,* William B. Stokes,* Edmund Cooper,* William B. Campbell,* S. M. Arnell,* Isaac R. Hawkins, John W. Leftwich.*
Vermont—Frederick E. Woodbridge, Justin S. Morrill, Portus Baxter.
West Virginia—Chester D. Hubbard,* George R. Latham,* Killian V. Whaley.
Wisconsin—Halbert E. Paine,* Ithamar C. Sloan, Amasa Cobb, Charles A. Eldridge, Philetus Sawyer,* Walter D. McIndoe.

The members from Tennessee were not admitted to either house until near the close of the session. Henry P. Stockton's seat in the Senate was declared vacant. Solomon Foote, of Vermont, died March 28, and was succeeded by George F. Edmunds. In the House the seat of D. W. Voorhees was given to Henry D. Washburne. That of James Brooks was given to William E. Dodge.

The following members were elected to Congress from the Southern States, but were not admitted:

SENATE.

Alabama—George S. Houston, Lewis E. Parsons.
Arkansas—E. Baxter, William D. Snow.
Louisiana—R. King Cutler, Michael Hahn.
Mississippi—William L. Sharkey, J. L. Alcorn.
North Carolina—John Pool, William A. Graham.
South Carolina—John L. Manning, Benjamin F. Perry.
Virginia—John C. Underwood, Joseph Segar.
Florida—William Marvin, Wilkerson Call.
Georgia—Alexander H. Stephens, Herschel V. Johnson.

HOUSE.

Alabama—C. C. Langdon, George C. Freeman, Cullen A. Battle, Joseph W. Taylor, B. T. Pope, T. J. Foster.
Arkansas—William Byers, George H. Kyle, J. M. Johnson.
Florida—F. McLeod.
Georgia—Solomon Cohen, Philip Cook, Hugh Buchanan, E. G. Cabaniss, J. D. Matthews, J. H. Christy, W. T. Wofford.
Louisiana—Louis St. Martin, Jacob Barker, Robert C. Wickliffe, John E. King, John S. Young.
Mississippi—A. E. Reynolds, R. A. Pinson, James T. Harrison, A. M. West, E. G. Peyton.
North Carolina—Jesse R. Stubbs, Charles C. Clark, Thomas C. Fuller, Josiah Turner, Jr., Bedford Brown, S. H. Walkup, A. H. Jones.
South Carolina—John D. Kennedy, William Aiken, Samuel McGowan, James Farrow.
Virginia—W. H. B. Custis, Lucius H. Chandler, B. Johnson Barbour, Robert Ridgway, Beverly A. Davis, Alexander H. H. Stuart, Robert Y. Conrad, Daniel H. Hoge.

Of those elected to the Senate, Mr. A. H. Stephens was a delegate from Georgia to the Convention which framed the "Confederate" Constitution, and was Vice-President of the "Confederacy" until its downfall. Mr. H. V. Johnson was a senator in the rebel Congress in the first and second Congresses, as was Mr. Graham from North Carolina. Mr. Pool was a senator in the Legislature of North Carolina. Mr. Perry was a "Confederate States" judge. Mr. Manning was a volunteer aid to General Beauregard at Fort Sumter and Manassas. Mr. Alcorn was in the Mississippi militia.

Among those elected to the House, of the *Alabama* delegation, Mr. Battle was a general in the rebel army, and Mr. Foster a representative in the first and second rebel Congresses.

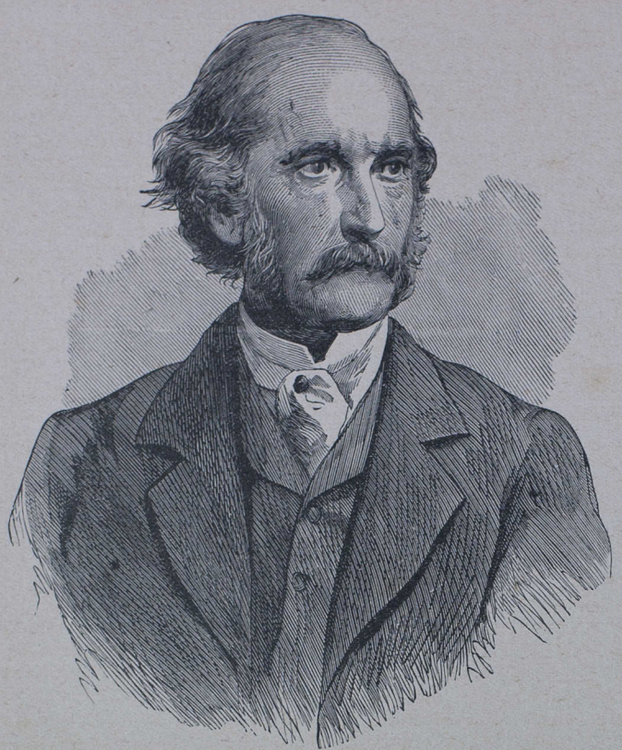
Of the *Georgia* delegation, Messrs. Cook and Wofford were generals in the rebel service.

Of the *Mississippi* delegation, Messrs. Reynolds and Pinson were colonels in the rebel service; Mr. Harrison was a member of the rebel Provisional Congress.

Of the *North Carolina* delegation, Mr. Fuller was a representative in the first rebel Congress, and Mr. Turner was a colonel in the rebel army, and a representative in the second rebel Congress; Mr. Brown was a member of the State Convention which passed the Secession Ordinance in 1861, and voted for it.

Of the *South Carolina* delegation, Mr. Kennedy was colonel and Mr. McGowan brigadier general in the rebel army; Mr. Farrow was a representative in the first and second rebel Congresses.

Of the *Virginia* delegation, Messrs. Stuart and Conrad were members of the Secession Convention of Virginia in 1861, and continued to participate after the passage of the ordinance and the beginning of hostilities.



LAFAYETTE S. FOSTER.

that President Johnson did not expect McPherson to come to any different conclusion in the matter, from his letter to Provisional Governor Perry, November 27, a week before the assembling of Congress. In this letter he said it was not necessary for the members elect from South Carolina to be present at the organization of Congress. On the contrary, he thought it would be better policy to present their certificates of election after the organization of the two houses, and then it would be "a simple question under the Constitution of the members taking their seats." "Each house," he added, "must judge for itself the election, returns, and qualifications of its own members."

An attempt was made by Brooks, of New York, to bring up the question as to the credentials of members previous to organization, but it proved unsuccessful. In the vote for speaker the House divided by a strictly party separation between Brooks and Colfax; 175 votes being cast, of which the former received 36, and the latter 139. Thus Schuyler Colfax was re-elected speaker. Being conducted to the chair, he addressed the House. He alluded to the circumstances under which this new Congress was assembled. The Thirty-eighth Congress had closed its existence while the war was still in progress, but now there was peace from shore to shore. The duties of this Congress, he said, "are as obvious as the sun's pathway in the heavens. Representing, in its two branches, the states and the people, its first and highest obligation is to guarantee to every state a republican form of government. The rebellion having overthrown constitutional state governments in many states, it is yours to mature and enact legislation which, with the concurrence of the executive, shall establish them anew on such a basis of enduring justice as will guarantee all necessary safeguards to the people, and afford what our Magna Charta, the Declaration of Independence, proclaims is the chief object of government—protection to all men in their inalienable rights. The world should witness in this great work the most inflexible fidelity, the most earnest devotion to the principles of liberty and humanity, the truest patriotism, and the wisest statesmanship. Heroic men, by hundreds of thousands, have died that the republic might live. The emblems of mourning have darkened White House and cabin alike; but the fires of civil war have melted every fetter in the land, and proved the funeral-pyre of slavery. It is for you, representatives, to do your work as faithfully and as well as did the fearless saviors of the Union on their more dangerous arena of duty. Then we may hope to see the vacant and once abandoned seats around us gradually filling up, until this hall shall contain representatives from every state and district, their hearts devoted to the Union for which they are to legislate, jealous of its honor, proud of its glory, watchful of its rights, and hostile to its enemies; and the stars on our banner, that paled when the states they represented arrayed themselves in arms against the nation, will shine with a more brilliant light of loyalty than ever before."

The speaker then took the test oath, which still remained in operation.

In the Senate, excluding Tennessee, there were 10 new members out of 50; in the House, excluding Tennessee, 93 out of 184, or fully one half, were new members. The political complexion of the Senate remained unchanged; but in the House the change was very great. In the Thirty-eighth Congress about four ninths of the members were Democrats, now they numbered less than one fourth. This change simply indicated the popular opposition to the schemes of the peace party in 1864. The Thirty-ninth Congress had been elected, not on the special issues of reconstruction, but on issues directly connected with the prosecution of the war.

President Johnson's message was anxiously awaited by the people. The President of the United States holds a peculiar position. He is, *par excellence*, the representative of the republic. He is directly elected by the whole people, while the legislative officers are elected either by states, as in the case of the Senate, or by local districts, as in the case of the House; therefore the people naturally look to him as to one whom they have expressly chosen as the exponent of their own views. He is elected by the majority of the whole people, and is therefore supposed to represent the nation rather than any section. To him is intrusted more power than resides in the head of a constitutional monarchy, because he is the choice of the people, and not a hereditary imposition. If Johnson's present position was different from that of a President elected as such, and not as Vice-President, that was the fault of the party which had elected him.

Johnson was a Democrat elected by the Republican party as Vice-President, and who, by accident, had become President. He had been a supporter of Breckinridge in the presidential contest of 1860. Although he was an ardent advocate of the Union, his political principles had not changed. He could scarcely find a name harsh enough by which to designate the rebellion. Following his own inclinations, he would have hanged the leading men engaged in it. In his view traitors should be "punished and impoverished." He knew that slavery was dead, but he was no mourner over its corpse. As military governor of Tennessee, he had been deemed one of the most radical members of the Republican party; and such indeed he had been, so far as war measures were concerned. Yet, now that the war was over, he was satisfied with what had been accomplished, and desired the immediate restoration of the Southern States to the Union upon the basis of the Constitution as it then stood, without farther modification. He would have preferred that the Southern Conventions should have extended the elective franchise to all negroes who could "read the Constitution of the United States in English and write their names," or who owned real estate to the value of $250. He even went so far as to urge such a measure upon the Mississippi Convention. He foresaw, or thought he did, that the Republican party would demand universal negro suffrage as a condition of restoration, and thought that the adoption of partial suffrage for the colored race would satisfy the people, and, as he expressed it, "disarm the adversary." But what was the "adversary" which Johnson wished to disarm? The party which had elected him. From the extremists of this party he feared more danger to the country than from the just subdued rebellious states. The very fact that these states had not appreciated the opportunity which he had given them, and had not heartily co-operated with him in his efforts in their behalf, only increased his apprehension; for he knew that their reluctant, half-hearted submission, and their ill-considered attempts to evade the consequences of the war, would give power to the faction of whose future action he had the most serious apprehension. With all their mistakes, he preferred to trust the Southern States rather than extreme Republicans. If

SCHUYLER COLFAX.

he was dissatisfied with the former, he was more apprehensive of the latter. He would sooner forgive rebels who had laid down their arms, however sullen their submission, than support those who desired to make the victory of the nation an occasion for the aggrandizement of their party. The former were powerless for injury; the danger threatened by the latter he deemed imminent and formidable.

During the few months preceding the assembling of Congress the speculations as to Johnson's position were numerous. He was every day pardoning rebels belonging to the classes excepted from his Amnesty Proclamation of May 29th. Of course the applications for pardon were many, but the exceptions had been made to exclude a few, and there was no impropriety in the President's pardoning all others. In some cases, however, where there was a special reason for refusal, pardon was not refused.

During this period, also, the Democratic press had undergone a somewhat remarkable change. Those journals which had hitherto been foremost in abusing Johnson now altered their tone. The Democratic party had been shamefully defeated in the election of 1864, but now there seemed to be a chance for its recovery. Somewhat curiously, this party supposed that Johnson was coming over to it, while Johnson, on the other hand, supposed that this party was coming over to him. And here we are reminded of the interview between George L. Stearns and the President, October 3d, 1865. "The Democratic party," said Johnson at this interview, "finds its old position is untenable, and is coming over to ours; if it has come up to our position, I am glad of it." At the same time the President expressed his views in detail. He said the states were in the Union, "which was whole and indivisible." "We must not," he remarked, "be too much in a hurry; it is better to let them reconstruct themselves than to force them to it; for if they go wrong, the power is in our hands, and we can check them in any stage to the end, and oblige them to correct their error; we must be patient with them." He expressed his opposition both to giving too much power to the states, and also to a great consolidation of power in the central government. "Our only safety," he said, "lies in allowing each state to control the right of voting by its own laws, and we have the power to control the rebel states if they go wrong. . . . . If the general government controls the right to vote in the states, it may establish such rules as will restrict the vote to a small number of persons, and thus create a central despotism." Universal negro suffrage now he thought would breed a war of races; but he was in favor of a gradual introduction of the black race to participation in political power. He said the negro would rather vote with his master whom he did not hate, than with the non-slaveholding population of the South, against whom he had an hereditary prejudice. This prejudice was shown by the fact that outrages committed originated either from non-slaveholding whites against negroes, or from negroes against non-slaveholding whites.

To understand Johnson's position at this time we must call to mind the considerations which influenced him. In the first place, there was his theory of the situation, according to which he believed that the burden of reconstruction rested upon the South, and not upon the executive or legislative departments of the government. The rebellion had ceased, and, whatever might be the decision of government as to the punishment of individual traitors, the states in which the rebellion had existed were still states, with all their powers unimpaired, and with all their social institutions intact save that of slavery. Allegiance, as it seemed to him, consisted in the performance of constitutional obligations. It is true that by the Constitution every man who had borne arms against the government might be hung for treason, or be punished in any other way, at the option of the government; but, even after that had been done, it would still remain true that the only claim which the government had upon the Southern people was a claim to their allegiance—not their allegiance to the Republican party, but to the Constitution. The ratification of the anti-slavery amendment he deemed necessary as a recognition of what had been accomplished by the war. The nullification of secession ordinances and the repudiation of the rebel debt were, in his view, directly involved in the abandonment of the struggle by the South. His views had not changed from what they had been in 1862, when in the Senate he introduced the resolution declaring that the object of the war was simply the suppression of the rebellion, and that, so soon as this should be accomplished, the war ought to cease, leaving the Southern States with all their original powers under the Constitution. Since then slavery had been abolished, and thus far the views expressed in this resolution had been changed, but no farther. Johnson did not regard the resumption of their former functions by the late Confederate States as a privilege granted them, but as a duty—a constitutional obligation which even the existence of civil war had no power to relax. Whatever farther changes in the organic law of the nation might seem necessary in the new situation consequent upon restoration ought, in his opinion, to be made in the ordinary way, and by all the states acting in common, and upon terms of equality.

But, apart from his theory as to the basis of restoration, there were certain practical considerations which influenced the President. So long as the Southern States were prevented from resuming their normal relations to the government, the balance of political power would remain disturbed. By the very election which had given him his present position a Congress also had been chosen which was more than three fourths Republican. He foresaw, or at least feared, that this Congress, in which there was so heavy a preponderance of power on the Republican side, would be partisan in its legislation, and would use its advantages for the concentration and perpetuation of party power. The immediate representation of the South in Congress, while it would counteract this tendency, could not, it seemed to him, be productive of evil, inasmuch as each house, by its power to decide upon the qualification of its members, had a safeguard against the admission of the disloyal, and inasmuch, moreover, as, even after the admission of every Southern member, the Republicans would still maintain a majority in both houses.

These principles constituted the basis of President Johnson's policy of reconstruction as laid before Congress in his first annual message. The first question, he said, which had presented itself for decision was whether the territory of the South should be held as conquered territory under military authority emanating from the President as commander-in-chief of the army. He had decided the question in the negative. Military governments, while they would not alleviate, would, on the other hand, exaggerate existing discontent; they would envenom hatred rather than restore affection; once established, no precise limit to their continuance was conceivable; the expense occasioned by them would be incalculable and exhausting; they would operate unfavorably against emigration from the Northern to the Southern States—one of the best means for the restoration of harmony; the powers of patronage and rule thus exercised under the President over a vast, populous, and naturally wealthy region, were greater than he would, unless under extreme necessity, intrust to any one man—greater than he would consent to exercise himself except on occasions of great emergency; and the willful use of such powers for a series of years would endanger not only the purity of the general administration, but also the liberties of the states which remained loyal.

But, argued the President, there was another and more vital objection to the establishment of military governments over the Southern States. Such a policy would imply that the states whose inhabitants had participated in the rebellion had, by the act of those inhabitants, ceased to exist. The true theory, on the other hand, was "that all pretended acts of secession were from the beginning null and void." States could not commit treason, nor screen individual traitors, any more than they could make treaties with foreign powers. The vitality of the seceding states had been by the rebellion impaired, but not extinguished, and their functions suspended, but not destroyed.

"But," proceeds the argument, "if any state neglects or refuses to perform its offices, there is the more need that the general government should maintain all its authority, and, as soon as practicable, resume the exercise of all its functions. On this principle I have acted, and have gradually and quietly, and by almost imperceptible steps, sought to restore the rightful energy of the general government and of the states. To that end provisional governors have been appointed for the states, Conventions called, governors elected, Legislatures assembled, and senators and representatives chosen to the Congress of the United States. At the same time, the courts of the United States, as far as could be done, have been reopened, so that the laws of the United States may be enforced through their agency. The blockade has been removed, and the custom-houses re-established in ports of entry, so that the revenue of the United States may be collected. The Post-office Department renews its ceaseless activity, and the general government is thereby enabled to communicate promptly with its officers and agents. The courts bring security to persons and property; the opening of the ports invites the restoration of industry and commerce; the post-office renews the facilities of social intercourse and of business. And is it not happy for us all that the restoration of each one of these functions of the general government brings with it a blessing to the states over which they are extended? Is it not a sure promise of harmony and renewed attachment to the Union that, after all that has happened, the return of the general government is known only as a beneficence?"

This policy was attended with some risk; its success involved the acquiescence of the states concerned. But the risk must be taken, and in the choice of difficulties it was the smallest risk. To diminish the danger involved in his policy he had asserted his power to pardon.

"The next step which I have taken," said the President, "to restore the constitutional relations of the states has been an invitation to them to participate in the high office of amending the Constitution. Every patriot must wish for a general amnesty at the earliest epoch consistent with public safety. For this great end there is need of a concurrence of all opinions, and the spirit of mutual conciliation. All parties in the late terrible conflict must work together in harmony. It is not too much to ask, in the name of the whole people, that, on the one side, the plan of restoration shall proceed in conformity with a willingness to cast the disorders of the past into oblivion; and that, on the other, the evidence of sincerity in the future maintenance of the Union shall be put beyond any doubt by the ratification of the proposed amendment to the Constitution, which provides for the abolition of slavery forever within the limits of our country. So long as the adoption of this amendment is delayed, so long will doubt, and jealousy, and uncertainty prevail. This is the measure which will efface the sad memory of the past; this is the measure which will most certainly call population, and capital, and security to those parts of the Union that need them most. Indeed, it is not too much to ask of the states which are now resuming their places in the family of the Union to give this pledge of perpetual loyalty and peace. Until it is done, the past, however much we may desire it, will not be forgotten. The adoption of the amendment reunites us beyond all power of disruption. It heals the wound that is still imperfectly closed; it removes slavery, the element which has so long perplexed and divided the country; it makes of us once more a united people, renewed and strengthened, bound more than ever to mutual affection and support."

Thus President Johnson explained the policy which he had thus far pursued. The completion of the work of restoration would be accomplished by the resumption on the part of the states of their places in the two branches of the national Legislature. "Here," he added, "it is for you, fellow-

citizens of the Senate, and for you, fellow-citizens of the House of Representatives, to judge, each of you for yourselves, of the elections, returns, and qualifications of your own members."

After advocating the speedy restoration by Congress of the Circuit Courts in the late rebel states, in order that those charged with the commission of treason might have fair and impartial trials, the President proceeded thus to consider the situation of the freedmen in those states:

"The relations of the general government toward the four millions of inhabitants whom the war has called into freedom have engaged my most serious consideration. On the propriety of attempting to make the freedmen electors by the proclamation of the executive, I took for my counsel the Constitution itself, the interpretations of that instrument by its authors and their contemporaries, and recent legislation by Congress. When, at the first movement toward independence, the Congress of the United States instructed the several states to institute governments of their own, they left each state to decide for itself the conditions for the enjoyment of the elective franchise. During the period of the Confederacy, there continued to exist a very great diversity in the qualifications of electors in the several states; and even within a state a distinction of qualifications prevailed with regard to the officers who were to be chosen. The Constitution of the United States recognizes these diversities when it enjoins that in the choice of members of the House of Representatives of the United States 'the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state Legislature.'

"After the formation of the Constitution, it remained, as before, the uniform usage for each state to enlarge the body of its electors according to its own judgment; and, under this system, one state after another has proceeded to increase the number of its electors, until now universal suffrage, or something very near it, is the general rule. So fixed was this reservation of power in the habits of the people, and so unquestioned has been the interpretation of the Constitution, that during the civil war the late President never harbored the purpose—certainly never avowed the purpose—of disregarding it; and in the acts of Congress, during that period, nothing can be found which during the continuance of hostilities, much less after their close, would have sanctioned any departure by the executive from a policy which has so uniformly obtained. Moreover, a concession of the elective franchise to the freedmen, by act of the President of the United States, must have been extended to all colored men, wherever found, and so must have established a change of suffrage in the Northern, Middle, and Western States, not less than in the Southern and Southwestern. Such an act would have created a new class of voters, and would have been an assumption of power by the President which nothing in the Constitution or laws of the United States would have warranted.

"On the other hand, every danger of conflict is avoided when the settlement of the question is referred to the several states. They can, each for itself, decide on the measure, and whether it is to be adopted at once and absolutely, or introduced gradually and with conditions. In my judgment, the freedmen, if they show patience and manly virtues, will sooner obtain a participation in the elective franchise through the states than through the general government, even if it had power to intervene. When the tumult of emotions that have been raised by the suddenness of the social change shall have subsided, it may prove that they will receive the kindliest usage from some of those on whom they have heretofore most closely depended."

But, while the President thought it was not competent for the general government to extend the elective franchise in the several states, it seemed equally clear to him that good faith required the security of the freedmen in their liberty and property, their right to labor, and to just compensation therefor. "It is," said he, "one of the greatest acts on record to have brought four millions of people into freedom. The career of free industry must be fairly opened to them; and then their future prosperity and condition must, after all, rest mainly on themselves. If they fail, and so perish away, let us be careful that the failure shall not be attributable to any denial of justice. In all that relates to the destiny of the freedmen we need not be too anxious to read the future; many incidents which, from a speculative point of view, might raise alarm, will quietly settle themselves."

This message was as able a political document as had ever been laid before the American Congress. But, for all that, the President, as we have said already, had committed a terrible blunder. He had assumed that the executive might *independently* determine the conditions necessary to restoration, and that to Congress was only left the consideration on the part of the two houses respectively of the qualifications of their members, and such action as might be deemed necessary to secure the freedmen against oppression. His mistake was not that he had not established military governments over the Southern States; it was not that he had usurped any power in re-establishing the relations between those states and the executive, which it was clearly his duty to do; but he had created an impression among the people of the South that simply by nullifying secession, repudiating the rebel debt, and ratifying the anti-slavery amendment, they had done all which was necessary to satisfy the people that the security of the country was fully established. Here was his mistake. The people were not satisfied by what had been done. They did not feel secure as to the future. On the contrary, they were greatly agitated with apprehension lest Southern politicians, combining with Northern Democrats, and assisted by the increased numerical representation resulting from the abolition of slavery, might imperil the security of the national debt, demand compensation for their freed slaves, inaugurate a system of legislation injurious to freedmen, and neutralize the results of the war. Congress also was dissatisfied, not only for the reasons which had occasioned popular discontent, but because it had not been admitted to participation in the first stages of reconstruction. In this work there were some things demanded by the people which belonged alone to the national Legislature, and could not be touched by the President. Thus, for instance, he had no right to demand the readjustment of the basis of representation.

All this difficulty might have been avoided if the President had called an extra session of Congress in July, 1865. There were two urgent reasons for such a session:

1. The perfection of the preliminary steps toward restoration in such features as required the supplementary action of Congress could only thus be secured.

2. It was an emergency which demanded harmonious action on the part of the government. This harmony implied no usurpation by the executive of the functions of Congress, or by Congress of executive powers. The President would still be perfectly independent in his own sphere, and a like independence would belong to the national Legislature. The very fact of the President's consulting with Congress would have conduced to harmony. And if, after all, there should arise a difference, and the President should deem it his duty to do his share of the work upon one plan, while Congress, after mature deliberation, should decide upon a different policy in regard to its own action, each would have shown a proper respect for the other, and thus the antagonism which might have been inevitable, however unfortunate, would have been free from bitterness. Each department of the government, moreover, would at the outset have given a full expression of its policy, and the Southern States would have been prevented from entertaining false hopes as to the result of their own action. The questions involved in the two different policies—if there must be two—would have thus been brought immediately before the people for calm discussion, and not in such a way as to lead on to an angry and acrimonious dispute.

But Johnson, as we have said, preferred another course, and proceeded to his work alone. Thus he laid the basis for a conflict between himself and Congress, for popular dissatisfaction, and for unreasonable expectations on the part of the Southern people. Whether these results followed with or without the President's design, they were equally unfortunate. It was certainly in his power to prevent them, but he did not use the power. Whatever might afterward be done by Congress to deepen and exacerbate the conflict between the executive and legislative departments of the government, it would still remain true that the President had taken the first steps toward such a conflict. Did he distrust Congress, and therefore attempt to forestall its action? Then it must be answered, first, that his distrust had no good foundation, as there was no indication that Congress was disposed to act unreasonably toward the South; and, secondly, that if Congress had been thus disposed, its action *could* not be forestalled by the President. It was the Congress of the United States; its action was as independent within its own sphere as was that of the President; so long as it remained in power, its decision as to the representation of the Southern States was irrevocable by any power on earth. And, moreover, the President could, by his distrust of Congress, or by an attempt to anticipate its action in the preliminary stages of restoration, only put that body upon its guard, and generate in it a corresponding distrust of himself, thus rendering future harmony between the executive and legislative departments almost impossible.

Previous to the organization of Congress, it had been determined in a caucus of Republicans to reject all delegations from the Southern States until both houses had agreed upon some plan of action respecting them. On the first day of the session, Thaddeus Stevens offered a resolution, which was adopted by the House, 133 to 36, "that a joint committee of fifteen members shall be appointed, nine of whom shall be members of the House and six members of the Senate, who shall inquire into the condition of the states which formed the so-called Confederate States of America, and report whether they, or any of them, are entitled to be represented in either house of Congress, with leave to report at any time by bill or otherwise; and until such report shall have been made and finally acted upon by Congress, no member shall be received into either house from any of the so-called Confederate States; and all papers relating to the representation of said states shall be referred to the said committee without debate." The previous question was demanded by Stevens, and all debate was forestalled. This resolution came before the Senate for action on the 12th of December, and was amended on motion of Senator Anthony, of Rhode Island, so as to become a concurrent instead of a joint resolution, thus making the signature of the President unnecessary. Anthony then moved another amendment, to strike out the provision preventing either house from admitting any of the members concerned until the committee should have reported and Congress should have taken final action upon the subject. This led to debate. Senator Howard, of Michigan, opposed the amendment. He held that the late Confederate States were conquered communities, without the right of self-government; we held them, not by their free will, but by the exercise of military power. Under these circumstances, he considered either house incompetent to admit members from those states without the consent of both. Senator Anthony replied that it was intended that both houses should act in concert, and it was also desirable that the executive and Congress should act in concert; "that all branches of the government shall approach this great question in a spirit of comprehensive patriotism, with confidence in each other, and that each branch of the government, and all persons in each branch of the government, will be ready, if necessary, to concede something of their own views in order to meet the views of those who are equally charged with the responsibility of public affairs." The Constitution confided to each house separately its own independent right of judgment of the elections, returns, and qualifications of its members.

Under the resolution as it came from the House, it would be necessary to refer the credentials of those claiming seats in the Senate to a committee, the majority of which was from the House. Besides, the resolution provided that papers should be referred to the committee without debate. This was contrary to the practice of the Senate.

Senator Doolittle, of Wisconsin, objected to the preponderance given to the House in the proposed committee, and said the injurious result of this could only be obviated by the amendment under consideration. He alluded to the restriction upon debate, and said the Senate was "to be led like a lamb to the slaughter, bound hand and foot, shorn of its constitutional power, and gagged." Again, the resolution, as it stood, would exclude 11 states from representation in the Union, thus accomplishing what rebellion had failed to accomplish—it was the "dissolution of the Union by act of Congress." The doctrine of Senator Howard, involving the theory of state destruction, was, he claimed, opposed to the ground taken by the Union party from the first, which was that states could not withdraw from the Union. They could not do it peacefully; they had undertaken to do it by arms; "we crushed the attempt; we trampled their armies under our feet; we captured the rebellion; the states are ours; and we entered them to save, and not to destroy." He alluded to the fact that the resolution originated in a secret caucus dominated by Thaddeus Stevens, the zealous advocate of confiscation, and to the hot haste with which this shrewd leader had pressed it through the House in the short space of 10 minutes, without debate, and before the President's message had been communicated. In conclusion, Doolittle urged upon the Senate the duty of that body to act in harmony with the President. We claim, he said, to be here acting as the friends of the late lamented President, and the friends of him upon whom had lately fallen the responsibilities of executive power. We aided in the election of both. When they were nominated, the experiment of reconstruction had already begun. For nearly a year Lincoln had been pursuing substantially the same policy which had been since followed by his successor. Their election, he claimed, was a popular support of this policy, and he predicted that Johnson would be sustained by the people. This was as certain, he said, as the revolutions of the earth.

Senator Fessenden then arose. He had at first favored the resolution as it came from the House because he sympathized with its object. The Senate ought not to adopt the convictions of the President without examination. This was a subject of infinite importance, involving the integrity and welfare of the republic in all future time, and it was the duty of senators to examine the subject with care and fidelity, and act upon their own convictions and not upon those of others. The resolution looked toward calm and deliberate consideration before action, and so far he approved it. But, upon a more careful reading, he had come to the conclusion, for the reasons already given by Senator Anthony, that the resolution perhaps went a little too far. It was important that the committee should be appointed, to secure harmony of action between the two houses. The subject would thus be carefully considered, and the delay necessary to secure deliberation was not so great an evil as party action. He concurred, however, in the objections made by Senator Anthony. From the passage of the amendment moved by that senator, the inference was not deducible, as Senator Howard thought it was, that the Senate was in favor of the immediate or hasty admission of any of the Southern members. He was himself certainly not in favor of such action, and yet he should vote for the amendment. Neither did he agree with Senator Doolittle that the appointment of this committee was any intimation with regard to the opinion entertained by the Senate of the President's policy. The Senate simply chose to consider the whole subject for itself before acting upon it.

Anthony's amendment was agreed to, and on the next day the House concurred in the amendments of the Senate, and the resolution was adopted. The House subsequently adopted for its own guidance the provisions which had been stricken out by the Senate. On the 14th the speaker announced as members of the joint committee on the part of the House, Thaddeus Stevens, of Pennsylvania; Elihu B. Washburne, of Illinois; Justin S. Morrill, of Vermont; Henry Grider, of Kentucky; John A. Bingham, of Ohio; Roscoe Conkling, of New York; George S. Boutwell, of Massachusetts; Henry T. Blow, of Missouri; and Andrew J. Rogers, of New Jersey. In the Senate, on December 21st, the following members were announced by the President *pro tem.*: Fessenden, Grimes, Harris, Howard, Johnson, Williams.

On the 12th the Senate adopted a resolution requesting the President to furnish information as to the condition of that portion of the Union lately in rebellion. The President replied on the 18th that the rebellion had been suppressed; that, so far as possible, United States courts had been restored, the post-offices re-established, and steps taken to put in operation the revenue laws. The late Confederate States, he said, had reorganized their governments, and were yielding obedience to the laws and government of the United States with more willingness and greater promptitude than under the circumstances could reasonably have been anticipated." The anti-slavery amendment had been ratified except in the case of Mississippi, and in nearly all the states measures had either been adopted or were now pending to confer upon freedmen the rights and privileges essential to their comfort, protection, and security. The aspect of affairs, in the President's opinion, was more promising than could have been anticipated. "The people," he said, "throughout the entire South evince a laudable desire to renew their allegiance to the government, and to repair the devastations of war by a prompt and cheerful return to peaceful pursuits. An abiding faith is entertained that their actions will conform to their professions, and that, in acknowledging the supremacy of the Constitution and laws of the United States, their loyalty will be unreservedly given to the government, whose leniency they can not fail to appreciate, and whose fostering care will soon restore them to a condition of prosperity. It is true that in some of the states the demoralizing effects of the war are to be seen in occasional disorders; but these are local in character, not frequent in occurrence, and are rapidly disappearing as the authority of civil law is extended and sustained. Perplexing questions were naturally to be expected from the great and sudden change in the relations between the two races; the systems are gradually developing themselves under which the freedman will receive the protection to which he is justly entitled, and by means of his labor make himself a useful and independent member of the community in which he has his home. From all the information in my possession, and from that which I have recently derived from the most reliable authority, I am induced to cherish the belief that sectional animosity is surely and rapidly merging itself into a spirit of nationality, and that representation, connected with a properly adjusted system of taxation, will result in a harmonious restoration of the relations of the states to the national Union."

With this brief message, which was somewhat rose-colored in its construction of Southern loyalty, and evidently designed to hasten the admission of Southern representatives to Congress, two reports were transmitted —from Major General Carl Schurz and Lieutenant General Grant, who had each recently made a tour of inspection through the Southern States. Schurz's report was more consonant with what was termed the "radical" sentiment, but was so prolix that, notwithstanding Senator Sumner's urgent request that it should be read by the secretary, the majority of the Senate preferred to see it in print. The lieutenant general was concise in his statements, which, though eminently conservative, were to the point. He had left Washington on the 27th of November, and his tour had only occupied little more than one week. His mission had been principally military in its nature, regarding the necessary distribution of the United States forces in the several states. He expressed himself satisfied that the "mass of thinking men of the South accepted the present situation of affairs in good faith, and that they regarded the questions of slavery and state rights as having been finally settled by the war, regarding this decision not only as final, but as a fortunate one for the whole country, 'they receiving like benefits from it with those who opposed them in the field and in council.'" But, adds the lieutenant general, "four years of war, during which law was executed only at the point of the bayonet throughout the states in rebellion, have left the people possibly in a condition not to yield that ready obedience to civil authority the American people have generally been in the habit of yielding." Therefore he thought small garrisons throughout those states necessary "until such time as labor returns to its proper channels, and civil authority is fully established." Neither the officers under the government nor the Southern citizens thought the present withdrawal of the military practicable. "The white and the black mutually require the protection of the general government." The military force needed was small. "There is," said the lieutenant general, "such universal acquiescence in the authority of the general government throughout the portions of country visited by me, that the mere presence of a military force, without regard to numbers, is sufficient to maintain order." He thought the good of the country and economy required that the force kept in the interior where there were many freedmen should consist of white troops. The presence of black troops demoralized labor not only by its direct influence, but as furnishing a resort for the freedmen for long distances around. No violence would be offered to black troops by thinking men, but it might by the ignorant; and, adds the lieutenant general, "the late slave seems to be imbued by the idea that the property of his late master should by right belong to him, or at least should have no protection from the colored soldier." He thought it was to be regretted that at this time there could not be a commingling of the two sections, especially in Congress.

In regard to the operations of the Freedmen's Bureau, there appeared to the general to have been in some of the states a lack of good judgment and economy. The agents of the Bureau had caused an idea to prevail among the freedmen that the lands of their former masters would be divided among them, and this belief had seriously interfered with the willingness of the freedmen to make contracts for the coming year. In some form the continuance of the Bureau was a necessity, and many of the disorders and much of the expense might, he thought, be removed by making every officer on duty in the Southern States an agent of the Bureau.

The Select Committee on Reconstruction, instead of being an organ of progress, proved one of obstruction. Its object had been sufficiently definite, namely, to inquire into the condition of the Southern States in respect of their fitness for representation. The elements involved in this investigation were very simple. If the entire committee had resolved itself into a board of inspectors, and had traveled over every one of the Southern States, it would have discovered no new aspect of the case presented. The primary question which they were expected to answer was, Does the security of the nation require other measures than those already included in the President's policy before Southern representatives ought to be admitted? The answer was just as plain when the committee was appointed as it was six months later. Other measures were necessary, not only in the view of Congress, but in that of the people. Then came the secondary question, What were these measures? And it was for conference concerning this question that the committee had been appointed. But here again the answer was clear, demanding the removal of no obscurity, for there was none to remove; requiring no great delay, but only careful deliberation as to details. The necessary measures to be insisted upon had been subjects of popular discussion for months, and among those whose past had proved

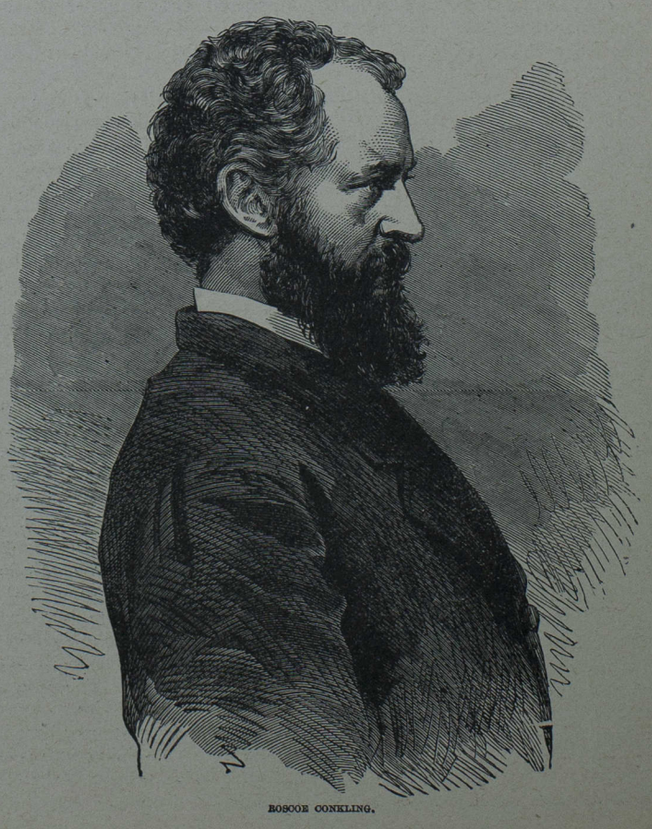
their steadfast loyalty and patriotism there was no expression of doubt as to what these measures were. By a constitutional amendment, said the popular voice, must it be declared that the rebel debt is repudiated, the adoption of the national debt secured, the basis of representation so readjusted as to give the South no advantage on account of rebellion, the civil rights of the freedmen firmly established, and the leaders of the late rebellion disfranchised until they can be safely admitted to a share in the government which they did their best to destroy. If these conditions had been written upon the sky in letters of fire they could not have been plainer. They were not conditions dependent upon any decision which might be rendered as to the present state of the South, or as to dangers clearly in prospect; they were necessary in any case for absolute security. Delay is not deliberation, and there were no good reasons why the committee should not have been ready to report in full within a fortnight from the time of its appointment. There was no necessity for long delay; and, on the other hand, the necessity was urgent that Congress should soon and fully declare its policy. Nothing could be done before the committee reported, and several of its members boldly expressed their idea that the South was not to be represented, nor to participate in the election of President for a series of years; and some of them went so far as to confess that this exclusion was designed to perpetuate the Republican party. Thus there was occasioned popular distrust of Congress, and within that body opposition began to be shown by members, who, while they did not object to a single one of the conditions demanded by the people, grew dissatisfied with the manner and spirit in which the development of the congressional policy was proceeding.

The committee did not report in full until six months after its appointment. It did not even report by bill until January 22d, 1866. On that day Thaddeus Stevens reported a joint resolution to amend the Constitution in regard to the basis of representation. This amendment declared that representatives and direct taxes should be apportioned among all the states according to their respective numbers, excluding Indians not taxed, *provided* that whenever the elective franchise should be denied or abridged in any state on account of race or color, all persons of such race and color should be excluded from the basis of representation. In this connection Stevens said that there were twenty-two states whose Legislatures were then in session, some of which would adjourn within two or three weeks. It was therefore desirable, he said, that this amendment, if adopted, should be adopted promptly. "It does not," he added, "deny to the states the right to regulate the elective franchise as they please; but it does say to a state, 'if you exclude from the right of suffrage Frenchmen, Irishmen, or any particular class of people, none of that class of people shall be counted in fixing your representation in this House.'"

This amendment was necessary, just, and impartial. It did not meet with any strong objection from the President, who, while he doubted the propriety of making farther amendments to the Constitution, was not opposed to the readjustment of the basis of representation. In an interview with Senator Dixon, of Connecticut, January 28th, 1866, he expressed his preference for a proposition making the number of qualified voters the basis of representation. The President's proposition offered the Southern States a motive for the partial extension of suffrage to negroes, while that reported by the Reconstruction Committee made it impossible for those states to gain in representation in any other way than by establishing impartial negro suffrage. The congressional proposition did not necessarily invite to universal suffrage; it excluded the entire colored race from representation only in the event of the elective franchise being denied to any of that race *because of color*. The exclusion would not result from any restriction upon the franchise which was applicable to white and black alike. The amendment thus favored impartial suffrage in the Southern States.

The whole case was fully stated by Roscoe Conkling, of New York, a member of the Reconstruction Committee. He began his argument by alluding to the constitutional provision which had hitherto regulated the apportionment of taxes and representation. These had been apportioned among the several states according to numbers, to be determined by adding to free persons three fifths of the slaves. This provision was one of the compromises of the Constitution; but, like the present amendment, it owed its existence to the principle that political representation belongs only to those who have political existence. The slaves of the South formed no part of the political society which framed the Constitution. They were without either natural or political rights. From this it naturally followed that they should not be represented. But direct taxes and representation ought to be distributed uniformly among the members of a free government. All alike should bear the burdens—all alike should share the benefits. The exception of aliens or unnaturalized foreigners from representation was not permanent or fixed. Slaves alone were forever excluded from the political community. He was a man and not a man; in flesh and blood alive, but politically dead—the representative of nothing but value. It could not be maintained by the slaveholding states that slaves were persons to be represented; it could neither be claimed that they were persons to be taxed. For these purposes slaves were excluded altogether by the principle on which the government was built. Without some special provision, therefore, they would have been altogether ignored. Taxes, however, were desirable on the one side, and representation on the other, and, for mere convenience, a compromise was invented for the sake of both. Thus a purely arbitrary agreement was inserted in the Constitution, supported by nothing but the consent of the parties, based upon the facts as they then stood. It was agreed in substance that the free people of all the states should be counted alike, and that the people of the slaveholding states should have as much power besides as would be measured by counting every slave as three fifths of one person; direct taxes to follow the same rule. The power thus agreed upon was not exercised by the slaves, but by their masters. This covenant was operative so long as there was any thing to operate upon. That time was now past. The provision had become impotent. The fall of slavery had superseded it. To continue the compromise now that the thing upon which it rested had passed from under it would lead to results which, when the Constitution was made, were condemned by the judgment of all. An anomaly had been introduced. Four millions were suddenly among us not bound to any one, and yet not clothed with any political rights—not slaves, and not, in a political sense, "persons." No figment of slavery remained with which to spell out a right in somebody else to wield for them a power which they might not wield themselves. Their masters had a fraction of power, on their account, while they were slaves, but now there were no masters and no slaves. Did this fraction of power still survive? If so, to whom did it belong? The blacks were pronounced unfit to wield even a fraction of power, and must not have it. That answered the question. If the answer was true, it was an end of controversy. If the blacks were unfit to have the power, then the power had no belonging whatsoever, and was at once resumed by the nation. This fractional power, then, was extinct. A moral earthquake had turned fractions to units, and units to ciphers. If a black man counted at all now, he was a whole man, not three fifths of one. Revolutions had no such fractions in their arithmetic; war and humanity joined hands to wipe them out. Four millions were to be reckoned, and these four millions, we were told, were unfit for political existence. The framers of the Constitution never dreamed of reckoning in the basis of representation those who were denied all political rights. Our fathers trusted to gradual and voluntary emancipation, which would go hand in hand with education and enfranchisement. They never peered into the bloody epoch when four million fetters would be at once melted off in the fires of war—four millions, each a Caspar Hauser, long shut up in darkness, and suddenly led out into the full flash of noon, and each, it was said, too blind to walk politically. No one foresaw such an event, and no provision was made for it. The three-fifths rule gave the slaveholding states over and above their just representation as a political community eighteen representatives. The new situation would enable these states to claim 28 representatives besides their just proportion. These 28 votes were to be controlled by those who once betrayed the government, and for those so destitute, it was claimed, of intelligence as not to be fit to vote for themselves. The result of this would be that while 127,000 white people in New York cast but one vote in the House, the same number of white men in Mississippi would cast three votes. Thus the death of slavery would add two fifths to the power which slavery exercised while it lived. Should one white man have as much share in the government as three other white men merely because he lived where blacks outnumbered whites two to one? Should this inequality exist, and exist only in favor of those who, without cause, drenched the land with blood, and covered it with mourning? Should such be the reward of those who did the foulest and guiltiest act which crimsons the annals of recorded time? To prevent this, three modes had been proposed:

1. To make the basis of representation in Congress and the Electoral College consist of sufficiently qualified voters alone.



ROSCOE CONKLING.

2. To deprive the states of the power to disqualify or discriminate politically on account of race or color.

3. To leave every state free to decide who should belong to its political community, and who should vote. Those decided unworthy to vote to be excluded from the basis of representation.

The last of these methods had been adopted by the committee. If voters alone were made the foundation of representation, the actual ratio would differ infinitely among different states. In the strife of unbridled suffrage, a state might give the franchise to women, minors, and aliens. In the second method, a great objection was encountered on the very threshold, because this plan denied to states the right to regulate their own affairs. The plan adopted by the committee had several advantages over the others.

1. It provided for representation going hand in hand with taxation.

2. It brought into the basis both sexes and all ages, and thus counteracted casual and geographical inequalities of population.

3. It put every state on an equal footing in the requirement prescribed.

4. It left every state free to enumerate all its people for representation or not, as it might choose.

If the amendment was adopted, and suffrage remained confined, as it was now, upon the census of 1860, the gains and losses would be these: Wisconsin, Indiana, Illinois, Ohio, Pennsylvania, Massachusetts, New Jersey, and Maine would gain one representative each, and New York would gain three; Alabama, Kentucky, North Carolina, South Carolina, and Tennessee would each lose one; Georgia, Louisiana, and Virginia would each lose two, and Mississippi three.[1]

Such was the argument of Roscoe Conkling—a statement so full and so conclusive in its reasoning that it is unnecessary to introduce the other arguments presented in favor of the proposition. When Stevens introduced the proposition, he demanded its adoption or rejection before the going down of the sun. The committee, of which he was so prominent a member, might be allowed weeks for deliberation, but the moment any of its measures were brought before the House, he deemed a few hours sufficient for their disposition. The House, however, did not seem inclined to amend the Constitution of the United States with such haste, and Stevens yielded.

The debate in the House was continued for several days. The proposition of the committee was opposed by those who desired to prevent the Southern States from disfranchising races, and also by those who, for political purposes, objected both to the enfranchisement of the negro race and to the equalization of representation, one or the other of which results would necessarily follow the adoption of the amendment. There was also a large number of Republicans who preferred that representation should be based upon the number of voters. This, it will be remembered, was the preference of the President. The objections to this basis (that of voters) which had been offered by Roscoe Conkling could easily be obviated, it was argued, by restrictions excluding women, minors, and aliens. But still it would remain true that such restrictions would limit the power of the states to regulate the franchise of their citizens—a power which they would not willingly abdicate, and thus the amendment might be defeated. The basis furnished by the committee's amendment was open to the somewhat serious objection that it left room for evasion on the part of the Southern States. Negroes or other races were excluded from representation only in case they were denied "franchise on account of race and color." But might not the Southern States prescribe as a qualification that no one should vote who had ever been a slave, and thus secure at once the exclusion of negroes from the franchise, and their inclusion in the basis of representation? Or might they not secure the same results by establishing a property qualification and then making negroes incompetent to own real estate? But, it was answered, these were evasions so evident that the courts would prevent their success. The object of the amendment was not to invite to negro suffrage, but simply to equalize representation upon a just and impartial basis, and the arguments brought forward in the course of the debate as to the probable effect of the amendment upon negro suffrage were of secondary importance, and foreign to the object which was meant to be accomplished. The amendment, if passed, would leave the subject of suffrage just where it was before.

There were a few gentlemen on the Republican side of the House who opposed the amendment of the committee because they agreed with the President that there was no good reason why Southern representatives should not be immediately admitted, if loyal, and who opposed any farther amendments to the Constitution as conditions to complete restoration. The most prominent of these was Henry J. Raymond, of New York, whose argument may stand as an exemplification of the views of those members of the House who adopted the President's policy. This argument was presented on the 28th of January, toward the close of the debate. Raymond was a man 46 years of age. He had graduated at the University of Vermont in 1840. The next year after his graduation he became managing editor of the New York *Tribune*. Subsequently he became leading editor of the New York *Courier and Enquirer*, performing at the same time the duties of reader for the firm of Harper & Brothers. In 1849 he was elected to the New York State Assembly; was re-elected and made Speaker. In 1851 he established the New York *Times*. Five years afterward he became a leader in the Republican party, and was subsequently chosen Lieutenant Governor of New York. He had been a delegate to the Chicago Convention of 1860, and, after having again served in the New York Legislature, was in 1864 elected representative from New York to the Thirty-ninth Congress. He was one of the most influential members of that Congress, and his opinions were always worthy of consideration. His speech on the 29th of January, 1866, was his first elaborate effort in Congress. He began his argument by stating that he looked upon all propositions for the amendment of the Constitution with hesitation and distrust. The Constitution had proved itself adequate to all the emergencies of peace and war. It had not been made for days or for years, but for all time. Yet he recognized the wisdom and necessity of amendments to meet changed circumstances and an altered condition of facts. In the fact that slavery was destroyed, he recognized the propriety of so amending the Constitution as to make the re-establishment of that institution impossible. The specific evil which the amendment of the Reconstruction Committee was intended to remedy properly demanded attention. By emancipation, 1,600,000 had been added to the representative population of the South. Thus arose an inequality which demanded attention and remedy. The committee had reported this amendment as a remedy. He did not suppose it would be possible to propose any remedy which would not be open to some objections. He thought, however, that this amendment was open to objections of a very serious nature. It changed the basis of representation from population to something else, and the same objection applied to the other remedies which had been proposed. It was a fundamental principle of free government that the population, the inhabitants, all who were subjects of law, should be represented in the enactment of law, "and in the election of men by whom the law is to be executed, either directly by their own votes, or through the votes of others, so connected with them as to afford a fair presumption that their wishes, their rights, and their interests will be consulted." This proposition departed from that principle, and thus disturbed the corner-stone of our Democratic institutions. Another objection was that it deprived of representation the whole of any race in a state if the state should extend to a portion only of that race the elective franchise. Thus the anomaly was introduced of having voters for representatives who were not themselves entitled to representation. It held out to the states no encouragement to enfranchise any portion of the colored race without enfranchising all. The effect of this would be most disastrous upon the relations of the Union to the Southern States, and upon the welfare of the states themselves and of the colored people within their borders. But he could not regard this as a distinct proposition standing upon its own merits alone, but as one of a series of amendments which, as the House had been given to understand, were yet to be proposed as preliminary to the admission of Southern representatives. He thought the House was entitled to know the whole programme before it acted upon specific features of it. It should know the relation of this proposition to those which were to follow. It should know "whether the powers of the general government of the United States are to be so enlarged as to destroy the rights which those states now hold under the Constitution." He was not willing to act on this proposition till he knew the rest of the schedule. He could not help believing that this was part of a scheme for reconstructing the government and the Constitution upon a distinct principle which had been announced over and over again in the House—that by the rebellion certain states had ceased to exist as states, the people of which were to be treated as vanquished enemies, subject to no law but our own discretion. He denied *in toto* the fact of such subjugation. Of defeated rebels we had a right to demand the surrender of their arms and of the principles on which their rebellion had been based. This surrender had been made and accepted. But the states still remained with all their constitutional powers. Raymond went on to illustrate the present situation of the Southern States by comparing it with that of a state whose government had been disturbed by a foreign power. The only conquest which had been made of the Southern States was their subjugation to the Constitution and the laws. He showed conclusively that every department of the government had recognized the late Confederate States as in the Union. It was possible that

[1] The following is the estimate for the several states:

Free States.	Apportionment under Census of 1860.	Based on Three fifths Slave Population.	Based on Population including Blacks.	Based on White Suffrage.	Based on Equal Suffrage.	According to proposed Amendment.
California	3	—	3	6	*6	3
Connecticut	4	—	4	5	4	4
Illinois	14	—	13	15	13	13
Indiana	11	—	10	11	10	12
Iowa	6	—	5	5	5	6
Kansas	1	—	1	1	1	1
Maine	5	—	5	6	5	6
Massachusetts	10	—	9	12	10	11
Michigan	6	—	6	7	6	7
Minnesota	2	—	2	2	2	2
New Hampshire	3	—	3	3	3	3
New Jersey	5	—	5	6	5	6
New York	31	—	29	35	31	34
Ohio	19	—	18	19	17	20
Oregon	1	—	1	1	1	1
Pennsylvania	24	—	22	24	22	25
Rhode Island	2	—	2	2	2	2
Vermont	3	—	3	3	3	3
Wisconsin	6	—	6	7	6	7
Total	156	—	147	170	152	168

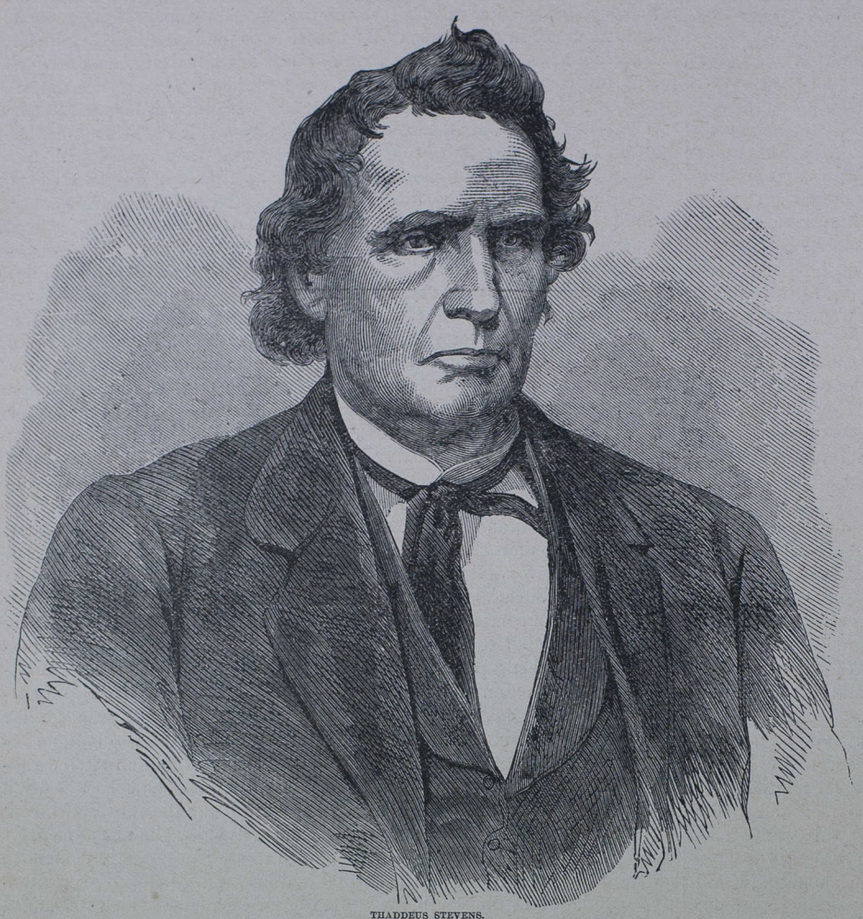
Slave States.	Apportionment under Census of 1860.	Based on Three fifths Slave Population.	Based on Population including Blacks.	Based on White Suffrage.	Based on Equal Suffrage.	According to proposed Amendment.
Alabama	6	1	7	4	7	5
Arkansas	3	1	3	3	3	3
Delaware	1	—	1	1	1	1
Florida	1	—	1	1	1	1
Georgia	7	2	8	5	7	5
Kentucky	9	1	9	8	8	8
Louisiana	5	2	6	4	6	3
Maryland	5	—	5	5	5	5
Mississippi	5	2	6	3	6	3
Missouri	9	1	9	9	9	10
North Carolina	7	2	8	5	7	6
South Carolina	4	2	5	3	5	3
Tennessee	8	1	9	7	8	7
Texas	4	1	5	4	5	4
Virginia	11	2	12	9	11	9
Total	85	18	94	71	89	73

* Not including Chinamen.

"NOTE.—In these several plans of apportionment the results are arrived at in the mode practiced under the present law, namely, the total representative population of all the states is first ascertained; this number is divided by 233, the number of representatives provided by law at the time of the taking of the last census. This gives the requisite ratio to a member. The representative population of each state is then divided by the ratio, and the result, rejecting fractions, shows the number of representatives to each state. The number unapportioned, in consequence of the fractions, is then added to the eight additional members provided by the law of 1862, and these are apportioned to the states having the largest fractions.

The ratio under the present apportionment is	127,000
The ratio on the basis of population, including the negroes, is	133,700
The ratio on the basis of white suffrage is	29,300
The ratio on the basis of equal suffrage, white and black, is	33,500
The ratio on the basis of the proposed amendment is	114,800

"Entirely accurate data of the number of voters in the several states can not be obtained from any recorded statistics. It is not shown by the presidential vote of 1860, for the reason that in some of the states where there was little real contest the vote was far from full. The number of males above the age of twenty years, aliens included, as given by the census of 1860, is taken as the nearest approximate to the number of voters. The proportion of aliens will not hold alike in all the states, there being a larger ratio in the northern than in the southern section of the Union; but it is believed the results indicated in the table will be sufficiently accurate for present purposes."—*Congressional Globe*, 39th Session, p. 357 8.



THADDEUS STEVENS.

Congress might attempt to expel them, but he did not think it would. He traced the various stages of the President's action since the close of the war, and added that it only remained for Congress to complete the work of restoration by the admission of the Southern representatives. If these representatives were loyal men, and each house was judge of that, then their action could not be disloyal, and there was no occasion for apprehension. We needed just the information which such loyal representatives could bring us. But Congress had given the whole subject over to a committee "which sits with closed doors, which deliberates in secret, which shuts itself out from the knowledge and observation of Congress, and which does not even deign to give us the information it was appointed to collect, and on which we are to base our action—but which sends its rescripts into this house, and demands their ratification, and without reasons and without facts, before the going down of the sun!" He thought the House ought to emancipate itself from the domination of this committee, and take the subjects assigned to it into its own keeping. There was too great reliance, he thought, placed in constitutional amendments as guarantees of the national safety. The Constitution had not prevented rebellion; was it probable that amendments could be more efficient? We must depend upon the patriotism of the American people—upon the national will and conscience. When these ceased to be efficient, what dependence was to be placed upon "paper Constitutions?" In conclusion, Raymond thus expressed his views as to what the government ought to do:

"In the first place, I think we ought to accept the present *status* of the Southern States, and regard them as having resumed, under the President's guidance and action, their functions of self-government in the Union. In the second place, I think this house should decide on the admission of representatives by districts, admitting none but loyal men who can take the oath we may prescribe, and holding all others as disqualified; the Senate acting, at its discretion, in the same way in regard to representatives of states. I think, in the third place, we should provide by law for giving to the freedmen of the South all the rights of citizens in courts of law and elsewhere. In the fourth place, I would exclude from federal office the leading actors in the conspiracy which led to the rebellion in every state. In the fifth place, I would make such amendments to the Constitution as may seem wise to Congress and the states, acting freely and without coercion. And, sixth, I would take such measures and precautions, by the disposition of military forces, as will preserve order and prevent the overthrow, by usurpation or otherwise, in any state, of its republican form of government. . . . . Above all, I beg this house to bear in mind, as the sentiment that should control and guide its action, that we of the North and they of the South are at war no longer. The gigantic contest is at an end. The courage and devotion on either side which made it so terrible and so long, no longer owe a divided duty, but have become the common property of the American name, the priceless possession of the American republic through all time to come. The dead of the contending hosts sleep beneath the soil of a common country and under one common flag. Their hostilities are hushed, and they are the dead of the nation forever more. The victor may well exult in the victory he has achieved. Let it be our task, as it will be our highest glory, to make the vanquished, and their posterity to the latest generation, rejoice in their defeat."

Raymond's argument may be fairly called a statement of the views entertained by the President, and it was open to precisely the same objections. It overlooked the necessity not only of the proposed amendment, but of others equally important. It underrated the value of constitutional provisions for national security. It is true that in extraordinary emergencies, like that presented at the opening of the rebellion, a section of the country might, in the madness of treason, throw the Constitution to the winds; but that was an appeal to arms. Congress was now considering the motives which regulate and restrain men in times of peace, and when obedience is universally yielded to law. In such a time, certainly, an amendment to the Constitution would be more efficient than a resolution or a sentiment.

The proposition was referred back to the committee for amendment, and was again reported in the House, January 31, so altered as to leave out the matter of taxation, but in no other respect. Thaddeus Stevens called the previous question, but yielded ten minutes of his time to other gentlemen. His address to the House on this occasion was characteristic. He had been informed, he said, by high authority "at the other end of the avenue," introduced through an unusual conduit (the "unusual conduit" being intended to designate Raymond), that no amendment to the Constitution was necessary. He then proceeded to consider the present amendment. He denied that it contained an implied permission to the general government to regulate the franchise of states. It left the rights of states just where they were. But it punished the abuse of this right. In making this statement Stevens committed a blunder. The object of the amendment was to remove an inequality which had hitherto existed in the basis of representation. If New York or South Carolina has the admitted right to exclude negroes from the franchise, then their exercise of that right could not be called an abuse, subject to legal penalty. Under the operation of the amendment, each state had to choose between impartial suffrage and a diminution of its representation, and its choice was not controlled. If the Southern States, continued Stevens, adopt the colored population as a part of their political community, they will have 83 votes in the House; if not, they will only have from 45 to 48, and with this diminution of their power all the Copperhead assistance they might receive could not enable them to do injury. He preferred that to an immediate declaration that all should be represented; "for, if you make them all voters, and let them into this hall, not one beneficial act for the benefit of the freedmen or for the benefit of the country would ever be passed. Their 83 votes, with the representatives from the Five Points and other dark corners, would be sufficient to overrule the friends of progress here, and this nation would be in the hands of secessionists at the very next congressional election, and at the very next presidential election. I do not, therefore, want to grant them this privilege, at least for some years. I want, in the mean time, our Christian men to go among them—the philanthropists of the North, the honest Methodists, my friends the Hardshell Baptists, and all others; and then, four or five years hence, when these freedmen shall have been made free indeed—when they shall have become intelligent enough, and there are sufficient loyal men there to control the representation from those states, I shall be glad to see them admitted here; but I do not want them to have representation—I say it plainly—I do not want them to have the right of suffrage before this Congress has done the great work of regenerating the Constitution and laws of this country according to the principles of the Declaration of Independence."

Stevens did not disguise his opinion that this amendment would result in the exclusion of Southern representatives for a period of years. It was for this reason that he preferred it to that which had been proposed fixing the representation upon voters. The latter would be more readily acceded to. An encouragement would thus be offered to extend the suffrage to the colored race. That, said Stevens, is the very objection. The Southern States would admit those whose political action they could control, and then, on this basis, enter Congress and make our laws for us; but they would not accede now to the present amendment—he did not expect to see that during his lifetime. In the mean time the freedmen would be educated, and finally receive universal suffrage (how many years hence Stevens did not conjecture), and then the Southern representatives might be admitted.

Stevens went on to say that he had a proposition which was the genuine one for the present situation—one which he loved, and which he hoped Congress would educate itself to the idea of adopting: "That all national and state laws shall be equally applicable to every citizen, and that no discrimination shall be made on account of race or color." But he was content to

take what was practicable—what would be carried by the states. He then alluded to Raymond's argument, which he pronounced not pertinent to the question, but proceeded to controvert by an argument equally impertinent. He endeavored to prove, by Vattel, that the late Confederate States were out of the Union.

Stevens had already, on the 18th of December, announced his theory of the situation. He had then insisted upon two things as of vital importance:

1. That the principle should be established that none of the late Confederate states should be counted in any of the amendments to the Constitution before they were "duly admitted into the family of states by the law-making power of their conqueror." "I take no account," said he, "of the aggregation of whitewashed rebels who, without any legal authority, have assembled in the capitals of the late rebel states and simulated legislative bodies; nor do I regard with any respect the cunning by-play into which they deluded the Secretary of State by frequent telegraphic announcements that 'South Carolina has adopted the amendment,' 'Alabama has adopted the amendment, being the twenty-seventh state,' etc. This was intended to delude the people, and accustom Congress to hear repeated the names of these extinct states as if they were alive; when, in truth, they have now no more existence than the revolted cities of Latium, two thirds of whose people were colonized, and their property confiscated, and their right of citizenship withdrawn by conquering and avenging Rome."

2. It was also important that it should then be solemnly decided what power could revive, recreate, and reinstate these provinces into the family of states, and invest them with the rights of American citizens. It was time that Congress should assert its sovereignty, and assume something of the dignity of the Roman Senate.

The doctrine, added Stevens on that occasion, "of a white man's government is as atrocious as the infamous sentiment that damned the late chief justice to everlasting fame, and, I fear, to everlasting fire."

Stevens's argument upon the present proposition regarding the basis of representation did not improve its prospect of adoption. He adroitly managed to connect it with his own peculiar theories. In his entire argument he assumed that its ratification by three fourths of the states then represented in Congress was sufficient. He distinctly advocated a postponement of restoration until it could be accomplished upon the principles asserted by the extremists of the Republican party. This connection of the proposed amendment with Stevens's peculiar theories was not necessary, and tended to misrepresent its object to Congress and the people. It furnished more arguments for the enemies than for the friends of the amendment. Notwithstanding this speech, however, the joint resolution passed the House 120 to 46. Eleven Republicans voted in the negative.[1]

In the Senate the resolution failed to receive a two-thirds vote. Indeed, it only passed by a bare majority.[2] One of its principal opponents was Senator Sumner. Charles Sumner differed from Thaddeus Stevens. Both were theorists on a grand scale, but the latter could let slip his splendid theory for a moment in order to grasp tangible objects in his way, while the former would accept nothing which did not to him seem true when tested by the plummet of absolute truth and eternal justice.[3] Of the 22 votes cast against the resolution in the Senate, one half were Republican. This opposition arose from motives so various that we find in the list of Nays the names of Democrats, and of the most extreme as well as of the most moderate Republicans.

The Reconstruction Committee after this defeat—which was due to the dissensions that divided the Republican party—again proceeded to deliberate, and on the 30th of April Thaddeus Stevens offered another resolution for the amendment of the Constitution. This new proposition covered a great deal of ground. It contemplated four results:

1. The equal protection of all citizens under the laws;

2. The equalization of representation;

3. The exclusion of all who had engaged in rebellion from the right to vote for representatives in Congress and presidential electors until July 4, 1870; and,

4. The repudiation of the rebel debt, and of any claim for compensation on account of the loss of slaves.[1]

In explaining the provisions of this amendment,[2] Stevens said they were not all that he desired, but all that he expected he could obtain, by the ratification of nineteen of even the loyal states. The idea that the ratification of amendments by the other states were to be counted he considered absurd. He would take all he could get in the cause of humanity, and leave it to be perfected by better men in better times. It might be that he would not be here to enjoy that glorious triumph, but it was as certain to come as that there is a just God. He animadverted with some bitterness to the manner in which the amendment formerly offered by the committee had been slaughtered in the Senate—in the house of its friends—by "puerile and pedantic criticism." The present amendment was, he thought, less efficient, but some way had to be devised "to overcome the united forces of self-righteous Republicans and unrighteous Copperheads." Evidently Thaddeus Stevens was disgusted with his brethren; but, said he, "it will not do for those who for thirty years have fought the beasts at Ephesus to be frightened by the fangs of modern catamounts." He wanted to secure more than was secured by this amendment. We should not approach the measure of justice until we gave every adult freedman a homestead on the land where he had toiled and suffered. Forty acres of land and a hut would be more valuable to the negro than the right to vote. Unless we gave this we should receive the censure of mankind and the curse of Heaven. The section excluding rebels from voting for a period of years he considered the mildest of all punishments ever inflicted on traitors. He might not consent to the extreme severity denounced upon them by a provisional governor of Tennessee—"the late lamented Andrew Johnson of blessed memory"—but he would have increased the severity of this section. On the 10th of March, the resolution, as presented by the committee, was passed 128 to 37.[3] Baldwin, Hale, Eliot, Jenckes, W. H. Randall, and Raymond—Republicans who had voted against the former amendment, gave their support to this one.

The resolution passed the Senate, after numerous amendments, on the 8th of June, by a two-thirds vote (33 to 11),[4] and went back to the House, where the Senate amendments were adopted, June 13th. The following is the text of the proposed amendment as finally passed:

"ARTICLE XIV. *Sec.* 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 within its jurisdiction the equal protection of the laws.

"*Sec.* 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons

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[1] Baldwin, Eliot, Hale, Jenckes, Latham, Phelps, W. H. Randall, Raymond, Rousseau, Smith, and Whaley.

The following is the vote in detail:

YEAS.—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, Defrees, Delano, Deming, Dixon, Donnelly, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James H. Hubbell, Hulburd, James Humphrey, Ingersoll, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Laflin, George V. Lawrence, William Lawrence, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Schofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Stillwell, Thayer, Francis Thomas, John L. Thomas, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—120.

NAYS.—Messrs. Baldwin, Bergen, Boyer, Brooks, Chanler, Dawson, Denison, Eldridge, Eliot, Finck, Grider, Hale, Aaron Harding, Harris, Hogan, Edwin N. Hubbell, James M. Humphrey, Jenckes, Johnson, Kerr, Latham, Le Blond, Marshall, McCullough, Niblack, Nicholson, Noell, Phelps, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Strouse, Taber, Taylor, Thornton, Trimble, Voorhees, Whaley, and Wright—46.

NOT VOTING.—Messrs. Ancona, Delos R. Ashley, Culver, Driggs, Dumont, Glossbrenner, Goodyear, Henderson, Higby, Jones, Loan, McRuer, Newell, Radford, Trowbridge, and Winfield—16.

[2] March 9, 1866. The following is the vote in detail:

YEAS.—Messrs. Anthony, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Harris, Howe, Kirkwood, Lane of Indiana, McDougall, Morgan, Morrill, Nye, Poland, Ramsey, Sherman, Sprague, Trumbull, Wade, Williams, and Wilson—25.

NAYS.—Messrs. Brown, Buckalew, Cowan, Davis, Dixon, Doolittle, Guthrie, Henderson, Hendricks, Johnson, Lane of Kansas, Nesmith, Norton, Pomeroy, Riddle, Saulsbury, Stewart, Stockton, Sumner, Van Winkle, Willey, and Yates—22.

ABSENT.—Messrs. Foot, Howard, and Wright—3.

[3] The following is a recapitulation of Sumner's argument against the amendment:

"Following it from the beginning, you have seen, first, how this proposition carries into the Constitution itself the idea of inequality of rights, thus defiling that unspotted text; secondly, how it is an express sanction of the acknowledged tyranny of taxation without representation; thirdly, how it is a concession to State Rights at a moment when we are recovering from a terrible war waged against us in the name of State Rights; fourthly, how it is the constitutional recognition of an oligarchy, aristocracy, caste, and monopoly founded on color; fifthly, how it petrifies in the Constitution the wretched pretension of a white man's government; sixthly, how it assumes what is false in constitutional law, that color can be a 'qualification' for an elector; seventhly, how it positively ties the hands of Congress in fixing the meaning of a republican government, so that under the guaranty clause it will be constrained to recognize an oligarchy, aristocracy, caste, and monopoly founded on color, together with the tyranny of taxation without representation, as not inconsistent with such a government; eighthly, how it positively ties the hands of Congress in completing and consummating the abolition of slavery according to the second clause of the constitutional amendment, so that it can not for this purpose interfere with the denial of the elective franchise on account of color; ninthly, how it installs recent rebels in permanent power over loyal citizens; and, tenthly, how it shows forth in unmistakable character as a compromise of human rights, the most immoral, indecent, and utterly shameful of any in our history."

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[1] The following is the text of the proposed amendment as first presented by Stevens:

"ARTICLE —. *Sec.* 1. 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 within its jurisdiction the equal protection of the laws.

"*Sec.* 2. Representatives shall be apportioned among the several states which may be included within this Union according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But whenever in any state the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such state shall be reduced in the proportion which the number of male citizens shall bear to the whole number of such male citizens not less than twenty-one years of age.

"*Sec.* 3. Until the 4th day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for representatives in Congress, and for electors for President and Vice-President of the United States.

"*Sec.* 4. Neither the United States nor any state shall assume or pay any debt or obligation already incurred, or which may hereafter be incurred, in aid of insurrection or war against the United States, or any claim for compensation for loss of involuntary service or labor.

"*Sec.* 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article." [3] March 8.

[2] YEAS.—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Bromwell, Broomall, Buckland, Bundy, Reader W. Clark, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, Defrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Laflin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McIndoe, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Schofield, Shellabarger, Spalding, Stevens, Stillwell, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Williams, James F. Wilson, Stephen F. Wilson, Windom, Woodbridge, and the Speaker—128.

NAYS.—Messrs. Ancona, Bergen, Boyer, Chanler, Coffroth, Dawson, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Harris, Kerr, Latham, Le Blond, Marshall, McCullough, Niblack, Phelps, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Strouse, Tabor, Taylor, Thornton, Trimble, Whaley, Winfield, and Wright—37.

NOT VOTING.—Messrs. Brandegee, Culver, Denison, Farquhar, Hale, Hill, Hogan, John H. Hubbard, Edwin N. Hubbell, James M. Humphrey, Johnson, Jones, Marvin, Nicholson, Noell, Pomeroy, Sloan, Starr, and Wentworth—19.

[4] YEAS.—Messrs. Anthony, Chandler, Clark, Conness, Cragin, Creswell, Edmunds, Fessenden, Foster, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Wade, Willey, Williams, Wilson, and Yates—33.

NAYS.—Messrs. Cowan, Davis, Doolittle, Guthrie, Hendricks, Johnson, McDougall, Norton, Riddle, Saulsbury, and Van Winkle—11.

ABSENT.—Messrs. Brown, Buckalew, Dixon, Nesmith, and Wright—5.

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 for participation in rebellion or other crime, the basis of representation therein shall be reduced in 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.

"*Sec.* 3. No person shall be a senator or representative in Congress, or elector of President and 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 engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Congress may, by a vote of two thirds of each house, remove such disability.

"*Sec.* 4. The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection and 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, or claims shall be held illegal and void.

"*Sec.* 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

The joint resolution did not require the assent of the President. But a resolution having been passed by the House requesting the President to transmit the proposed amendment to the several state Legislatures, he took occasion to reply, expressing his opinion, and protesting that the ministerial act of transmitting the amendment to the state Legislatures did not commit the executive to an approval or recommendation of it.[1]

The amendment covered the whole ground of reconstruction, so far as Congress was concerned. There was no reason why its ratification might not be properly required of every Southern State as an evidence of its good faith, which would not also apply to the amendment abolishing slavery. Just after the war closed its ratification would have been readily acceded; but it was certain to be refused now by almost every Southern State on account of the encouragement afforded by President Johnson's policy, and the hope that this might prevail sooner or later with the Northern people. No other attitude could have been expected of the South under the circumstances. It was in the condition of an army which acknowledges its defeat, but insists upon the best terms of accommodation which there is the slightest ground to hope the conqueror will grant.

The Reconstruction Committee submitted its full report to Congress on the 18th of June, 1866—or rather it submitted two reports, one representing the views of the majority of its members, and the other those of the minority, consisting of Reverdy Johnson, A. J. Rogers, and Henry Grider. The latter report almost entirely ignores the fact of the war, and the nature of the situation immediately consequent. It refuses the right of the government to deny even temporarily, and for its own safety, to states which have been in rebellion, the resumption of all their rights and privileges; whereas, if there is any political principle clearly established and beyond dispute, it is, that the security of government lies back of even its written Constitution, and is the supreme law of national existence.

The report of the majority we shall consider more in detail. It contains many false constructions of the Constitution, based upon the erroneous theories of some members of the committee, and to which exception might be taken. Its denial to the President of any other powers, outside of his position as commander-in-chief of the army and navy, except those involved in the execution of the laws of Congress, is inconsistent with the whole spirit of the Constitution, according to which the executive is a *co-ordinate* branch of the government, and not vested merely with *subordinate* and *ministerial* functions. It is inconsistent also with the President's oath of office, by which he is bound not simply to execute the laws, but to protect the Constitution. The assumption made in the report that upon Congress alone devolves the duty to guarantee to every state a republican form of government, is contradicted by the very words of the constitutional provision making this guaranty the duty of the United States; and, as if with the very purpose of not confining it to either the President or to Congress exclusively, this provision occurs in neither of the articles defining respectively the powers of the executive and of Congress. This assumption that Congress is, in an exclusive sense, the government of the United States, pervades the whole report.

But, laying aside all matters which might be made the subject of criticism, we must regard this report as a conclusive argument in justification of the action of Congress in refusing representation to the Southern States until certain measures necessary to the national safety should be secured beyond the possibility of doubt through constitutional amendment. The nature and extent of the outrage which had been committed against the government, argues the committee, gave the government the right to exact indemnity for the injuries done, and security against their recurrence. The decision as to what that security should be, as to what proof should be required of returned allegiance, must depend upon grave considerations of the public safety and the general welfare. If it were true that, the moment when rebels lay down their arms and actual hostilities cease, all political rights of the rebellious communities are at once restored—if their right to participate in the government of the country must be allowed under these circumstances—then the government would be powerless for its own protection, "and flagrant rebellion, carried to the extreme of civil war, is a pastime which any state can play at, not only certain that it can lose nothing in any event, but may even be the gainer by defeat. If rebellion succeeds, it accomplishes its purpose and destroys the government. If it fails, the war has been barren of results, and the battle may still be fought out in the legislative halls of the country. Treason, defeated in the field, has only to take possession of Congress and the cabinet."

"It is desirable," continues the report, "that the Union of all the states should become perfect at the earliest moment consistent with the peace and welfare of the nation; that all these states should become fully represented in the national councils, and take their share in the legislation of the country. The possession and exercise of more than the just share of power by any section is injurious, as well to that section as to all others. Its tendency is distracting and demoralizing, and such a state of affairs is only to be tolerated on the ground of a necessary regard to the public safety. As soon as that safety is secured it should terminate."

Before the restoration of the states to their original privileges, the rights, as free men and citizens, of millions belonging to the colored race must be secured, and the basis of representation must be altered to prevent some states from exercising a disproportionate share in the government. Accordingly, the committee had submitted the constitutional amendment embracing these provisions, together with others, "after a long and careful comparison of conflicting opinions."[1]

[1] "Even in ordinary times," said the President, "any question of amending the Constitution must be justly regarded as of paramount importance. This importance is at the present time enhanced by the fact that the joint resolution was not submitted by the two houses for the approval of the President, and that, of the thirty-six states which constitute the Union, eleven are excluded from representation in either house of Congress, although, with the single exception of Texas, they have been entirely restored to all their functions as states in conformity with the organic law of the land, and have appeared at the national capital by senators and representatives, who have applied for and have been refused admission to the vacant seats. Nor have the sovereign people of the nation been afforded an opportunity of expressing their views upon the important questions which the amendment involves. Grave doubts, therefore, may naturally and justly arise as to whether the action of Congress is in harmony with the sentiments of the people, and whether state Legislatures elected without reference to such an issue should be called upon by Congress to decide respecting the ratification of the proposed amendment."

[1] We subjoin the concluding portion of this report:

"Your committee have been unable to find, in the evidence submitted to Congress by the President, under date of March 6, 1866, in compliance with the resolutions of January 5 and February 27, 1866, any satisfactory proof that either of the insurrectionary states, except perhaps the State of Tennessee, has placed itself in a condition to resume its political relations to the United States. The first step toward that end would necessarily be the establishment of a republican form of government by the people. It has been before remarked that the provisional governors, appointed by the President in the exercise of his military authority, could do nothing by virtue of the power thus conferred toward the establishment of a state government. They were acting under the War Department, and paid out of its funds. They were simply bridging over the chasm between rebellion and restoration. And yet we find them calling Conventions and convening Legislatures. Not only this, but we find the Conventions and Legislatures thus convened acting under executive direction as to the provisions required to be adopted in their Constitutions and ordinances as conditions precedent to their recognition by the President. The inducement held out by the President for compliance with the conditions imposed was, directly in one instance, and presumably, therefore, in others, the immediate admission of senators and representatives to Congress. The character of the Conventions and Legislatures thus assembled was not such as to inspire confidence in the good faith of their members. Governor Perry, of South Carolina, dissolved the Convention assembled in that state before the suggestion had reached Columbia from Washington that the rebel war debt should be repudiated, and gave as his reason that it was a 'revolutionary body.' There is no evidence of the loyalty or disloyalty of the members of those Conventions and Legislatures except the fact of pardons being asked for on their account. Some of these states now claiming representation refused to adopt the conditions imposed. No reliable information is found in these papers as to the constitutional provisions of several of these states, while in not one of them is there the slightest evidence to show that these 'amended Constitutions,' as they are called, have ever been submitted to the people for their adoption. In North Carolina alone an ordinance was passed to that effect, but it does not appear to have been acted on. Not one of them, therefore, has been ratified. Whether, with President Johnson, we adopt the theory that the old Constitutions were abrogated and destroyed, and the people 'deprived of all civil government,' or whether we adopt the alternative doctrine that they were only suspended, and were revived by the suppression of the rebellion, the new provisions must be considered as equally destitute of validity before adoption by the people. If the Conventions were called for the sole purpose of putting the state government into operation, they had no power either to adopt a new Constitution or to amend an old one without the consent of the people. Nor could either a Convention or a Legislature change the fundamental law without power previously conferred. In the view of your committee, it follows, therefore, that the people of a state where the Constitution has been thus amended might feel themselves justified in repudiating altogether all such unauthorized assumptions of power, and might be expected to do so at pleasure.

"So far as the disposition of the people of the insurrectionary states, and the probability of their adopting measures conforming to the changed condition of affairs can be inferred from the papers submitted by the President as the basis of his action, the prospects are far from encouraging. It appears quite clear that the anti-slavery amendments, both to the State and Federal Constitutions, were adopted with reluctance by the bodies which did adopt them, while in some states they have been either passed by in silence or rejected. The language of all the provisions and ordinances of these states on the subject amounts to nothing more than an unwilling admission of an unwelcome truth. As to the Ordinance of Secession, it is in some cases declared 'null and void,' and in others simply 'repealed;' and in no instance is a refutation of this deadly heresy considered worthy of a place in the new Constitution.

"If, as the President assumes, these insurrectionary states were, at the close of the war, wholly without state governments, it would seem that, before being admitted to participation in the direction of public affairs, such governments should be regularly organized. Long usage has established, and numerous statutes have pointed out the mode in which this should be done. A Convention to frame a form of government should be assembled under competent authority. Ordinarily this authority emanates from Congress; but, under the peculiar circumstances, your committee is not disposed to criticise the President's action in assuming the power exercised by him in this regard. The Convention, when assembled, should frame a Constitution of government, which should be submitted to the people for adoption. If adopted, a Legislature should be convened to pass the laws necessary to carry it into effect. When a state thus organized claims representation in Congress, the election of representatives should be provided for by law, in accordance with the laws of Congress regulating representation, and the proof that the action taken has been in conformity to law should be submitted to Congress.

"In no case have these essential preliminary steps been taken. The Conventions assembled seem to have assumed that the Constitutions which had been repudiated and overthrown were still in existence, and operative to constitute the states members of the Union, and to have contented themselves with such amendments as they were informed were requisite in order to insure their return to an immediate participation in the government of the United States. Not waiting to ascertain whether the people they represented would adopt even the proposed amendments, they at once ordered elections of representatives to Congress, in nearly all instances before an executive had been chosen to issue writs of election under the state laws, and such elections as were held were ordered by the Conventions. In one instance, at least, the writs of election were signed by the provisional governor. Glaring irregularities and unwarranted assumptions of power are manifest in several cases, particularly in South Carolina, where the Convention, although disbanded by the provisional governor on the ground that it was a revolutionary body, assumed to redistrict the state.

"It is quite evident from all these facts, and indeed from the whole mass of testimony submitted by the President to the Senate, that in no instance was regard paid to any other consideration than obtaining immediate admission to Congress under the barren form of an election in which

The committee had been working hard for six months, and with the results of its deliberations no reasonable ground of complaint can be found. But the necessity of every measure which it had submitted to Congress was just as clear at the beginning of the session as at the close. It had accu-

no precautions were taken to secure regularity of proceedings or the assent of the people. No Constitution has been legally adopted except perhaps in the State of Tennesee, and such elections as have been held were without authority of law. Your committee are accordingly forced to the conclusion that the states referred to have not placed themselves in a condition to claim representation in Congress, unless all the rules which have, since the foundation of the government, been deemed essential in such cases should be disregarded.

"It would, undoubtedly, be competent for Congress to waive all formalities, and to admit these Confederate States to representation at once, trusting that time and experience would set all things right. Whether it would be advisable to do so, however, must depend upon other considerations of which it remains to treat. But it may well be observed that the inducements to such a step should be of the very highest character. It seems to your committee not unreasonable to require satisfactory evidence that the ordinances and constitutional provisions which the President deemed essential in the first instance will be permanently adhered to by the people of the states seeking restoration after being admitted to full participation in the government, and will not be repudiated when that object shall have been accomplished. And here the burden of proof rests upon the late insurgents who are seeking restoration to the rights and privileges which they willingly abandoned, and not upon the people of the United States who have never undertaken, directly or indirectly, to deprive them thereof. It should appear affirmatively that they are prepared and disposed in good faith to accept the results of the war, to abandon their hostility to the government, and to live in peace and amity with the people of the loyal states, extending to all classes of citizens equal rights and privileges, and conforming to the republican idea of liberty and equality. They should exhibit in their acts something more than an unwilling submission to an unavoidable necessity—a feeling, if not cheerful, certainly not offensive and defiant; and they should evince an entire repudiation of all hostility to the general government by an acceptance of such just and reasonable conditions as that government should think the public safety demands. Has this been done? Let us look at the facts shown by the evidence taken by the committee.

"Hardly is the war closed before the people of these insurrectionary states come forward and claim as a right the privilege of participating at once in that government which they had for four years been fighting to overthrow. Allowed and encouraged by the executive to organize state governments, they at once placed in power leading rebels, unrepentant and unpardoned, excluding with contempt those who had manifested an attachment to the Union, and preferring, in many instances, those who had rendered themselves the most obnoxious. In the face of the law requiring an oath which would necessarily exclude all such men from federal offices, they elect, with very few exceptions, as senators and representatives in Congress, men who had actively participated in the rebellion, insultingly denouncing the law as unconstitutional. It is only necessary to instance the election to the Senate of the late Vice-President of the Confederacy, a man who, against his own declared convictions, had lent all the weight of his acknowledged ability and of his influence as a most prominent public man to the cause of the rebellion, and who, unpardoned rebel as he is, with that oath staring him in the face, had the assurance to lay his credentials on the table of the Senate. Other rebels of scarcely less note or notoriety were selected from other quarters. Professing no repentance; glorying apparently in the crime they had committed; avowing still, as the uncontradicted testimony of Mr. Stephens and many others proves, an adherence to the pernicious doctrine of secession, and declaring that they yielded only to necessity, they insist, with unanimous voice, upon their rights as states, and proclaim that they will submit to no conditions whatever as preliminary to their resumption of power under that Constitution which they still claim the right to repudiate.

"Examining the evidence taken by your committee still farther, in connection with facts too notorious to be disputed, it appears that the Southern press, with few exceptions, and those mostly of newspapers recently established by Northern men, abound with weekly and daily abuse of the institutions and people of the loyal states; defends the men who led, and the principles which incited the rebellion; denounces and reviles Southern men who adhered to the Union; and strives, constantly and unscrupulously, by every means in its power, to keep alive the fire of hate and discord between the sections, calling upon the President to violate his oath of office, overturn the government by force of arms, and drive the representatives of the people from their seats in Congress. The national banner is openly insulted, and the national airs scoffed at, not only by an ignorant populace, but at public meetings, and once, among other notable instances, at a dinner given in honor of a notorious rebel who had violated his oath and abandoned his flag. The same individual is elected to an important office in the leading city of his state, although an unpardoned rebel, and so offensive that the President refuses to allow him to enter upon his official duties. In another state the leading general of the rebel armies is openly nominated for governor by the speaker of the House of Delegates, and the nomination is hailed by the people with shouts of satisfaction, and openly indorsed by the press.

"Looking still farther at the evidence taken by your committee, it is found to be clearly shown, by witnesses of the highest character, and having the best means of observation, that the Freedmen's Bureau, instituted for the relief and protection of freedmen and refugees, is almost universally opposed by the mass of the population, and exists in an efficient condition only under military protection, while the Union men at the South are earnest in its defense, declaring with one voice that without its protection the colored people would not be permitted to labor at fair prices, and could hardly live in safety. They also testify that without the protection of United States troops, Union men, whether of Northern or Southern origin, would be obliged to abandon their homes. The feeling in many portions of the country toward the emancipated slaves, especially among the uneducated and ignorant, is one of vindictive and malicious hatred. This deep-seated prejudice against color is assiduously cultivated by the public journals, and leads to acts of cruelty, oppression, and murder, which the local authorities are at no pains to prevent or punish. There is no general disposition to place the colored race, constituting at least two fifths of the population, upon terms even of civil equality. While many instances may be found where large planters and men of the better class accept the situation, and honestly strive to bring about a better order of things by employing the freedmen at fair wages and treating them kindly, the general feeling and disposition among all classes are yet totally averse to the toleration of any class of people friendly to the Union, be they black or white; and this aversion is not unfrequently manifested in an insulting and offensive manner.

"The witnesses examined as to the willingness of the people of the South to contribute, under existing laws, to the payment of the national debt, prove that the taxes levied by the United States will be paid only on compulsion and with great reluctance, while there prevails, to a considerable extent, an expectation that compensation will be made for slaves emancipated and property destroyed during the war. The testimony on this point comes from officers of the Union army, officers of the late rebel army, Union men of the Southern States, and avowed secessionists, almost all of whom state that, in their opinion, the people of the rebellious states would, if they should see a prospect of success, repudiate the national debt.

"While there is scarcely any hope or desire among leading men to renew the attempt at secession at any future time, there is still, according to a large number of witnesses, including A. H. Stephens, who may be regarded as good authority on that point, a generally prevailing opinion which defends the legal right of secession, and upholds the doctrine that the first allegiance of the people is due to the states, and not to the United States. This belief evidently prevails among leading and prominent men, as well as among the masses every where, except in some of the northern counties of Alabama and the eastern counties of Tennessee.

"The evidence of an intense hostility to the Federal Union, and an equally intense love of the late Confederacy, nurtured by the war, is decisive. While it appears that nearly all are willing to submit, at least for the time being, to the federal authority, it is equally clear that the ruling motive is a desire to obtain the advantages which will be derived from a representation in Congress. Officers of the Union army on duty, and Northern men who go South to engage in business, are generally detested and proscribed. Southern men who adhered to the Union are bitterly hated and relentlessly persecuted. In some localities prosecutions have been instituted in state courts against Union officers for acts done in the line of official duty, and similar prosecutions are threatened elsewhere as soon as the United States troops are removed. All such demonstrations show a state of feeling against which it is unmistakably necessary to guard.

"The testimony is conclusive that, after the collapse of the Confederacy, the feeling of the people of the rebellious states was that of abject submission. Having appealed to the tribunal of arms, they had no hope except that by the magnanimity of the conquerors their lives, and possibly their property, might be preserved. Unfortunately, the general issue of pardons to persons who had been prominent in the rebellion, and the feeling of kindness and conciliation manifested by the executive, and very generally indicated through the Northern press, had the effect to render whole communities forgetful of the crime they had committed, defiant toward the federal government, and regardless of their duties as citizens. The conciliatory measures of the government do not seem to have been met even half way. The bitterness and defiance exhibited toward the United States under such circumstances is without a parallel in the history of the world. In return for our leniency we receive only an insulting denial of our authority. In return for our kind desire for the resumption of fraternal relations we receive only an insolent assumption of rights and privileges long since forfeited. The crime we have punished is paraded as a virtue, and the principles of republican government which we have vindicated at so terrible cost are denounced as unjust and oppressive.

"If we add to this evidence the fact that, although peace has been declared by the President, he has not, to this day, deemed it safe to restore the writ of habeas corpus, to relieve the insurrectionary states of martial law, nor to withdraw the troops from many localities, and that the commanding general deems an increase of the army indispensable to the preservation of order and the protection of loyal and well-disposed people in the South, the proof of a condition of feeling hostile to the Union and dangerous to the government throughout the insurrectionary states would seem to be overwhelming.

"With such evidence before them, it is the opinion of your committee—

"I. That the states lately in rebellion were, at the close of the war, disorganized communities, without civil government, and without Constitutions or other forms by virtue of which political relations could legally exist between them and the federal government.

"II. That Congress can not be expected to recognize as valid the election of representatives from disorganized communities which, from the very nature of the case, were unable to present their claim to representation under those established rules the observance of which has been hitherto required.

"III. That Congress would not be justified in admitting such communities to a participation in the government of the country without first providing such constitutional or other guarantees as will tend to secure the civil rights of all citizens of the republic; a just equality of representation; protection against claims founded in rebellion and crime; a temporary restoration of the right of suffrage to those who have not actively participated in the efforts to destroy the Union and overthrow the government; and the exclusion from positions of public trust of at least a portion of those whose crimes have proved them to be enemies to the Union, and unworthy of public confidence.

"Your committee will, perhaps, hardly be deemed excusable for extending this report farther; but inasmuch as immediate and unconditional representation of the states lately in rebellion is demanded as a matter of right, and delay, and even hesitation, is denounced as grossly oppressive and unjust, as well as unwise and impolitic, it may not be amiss again to call attention to a few undisputed and notorious facts, and the principles of public law applicable thereto, in order that the propriety of that claim may be fully considered and well understood.

"The State of Tennessee occupies a position distinct from all the other insurrectionary states, and has been the subject of a separate report, which your committee have not thought it expedient to disturb. Whether Congress shall see fit to make that state the subject of separate action, or to include it in the same category with all others, so far as concerns the imposition of preliminary conditions, it is not within the province of this committee either to determine or advise.

"To ascertain whether any of the so-called Confederate States 'are entitled to be represented in either house of Congress,' the essential inquiry is whether there is, in any one of them, a constituency qualified to be represented in Congress. The question how far persons claiming seats in either house possess the credentials necessary to enable them to represent a duly qualified constituency is one for the consideration of each house separately, after the preliminary question shall have been finally determined.

"We now propose to restate, as briefly as possible, the general facts and principles applicable to all the states recently in rebellion.

"1st. The seats of the senators and representatives from the so-called Confederate States became vacant in the year 1861, during the second session of the Thirty-sixth Congress, by the voluntary withdrawal of their incumbents, with the sanction and by direction of the Legislatures or Conventions of their respective states. This was done as a hostile act against the Constitution and government of the United States, with a declared intent to overthrow the same by forming a Southern Confederation. This act of declared hostility was speedily followed by an organization of the same states into a confederacy, which levied and waged war by sea and land against the United States. This war continued four years, within which period the rebel armies besieged the national capital, invaded the loyal states, burned their towns and cities, robbed their citizens, destroyed more than 250,000 loyal soldiers, and imposed an increased national burden of not less than $3,500,000,000, of which seven or eight hundred millions have already been met and paid. From the time these confederated states thus withdrew their representation in Congress and levied war against the United States, the great mass of their people became and were insurgents, rebels, traitors, and all of them assumed and occupied the political, legal, and practical relation of enemies of the United States. This position is established by acts of Congress and judicial decisions, and is recognized repeatedly by the President in public proclamations, documents, and speeches.

"2d. The states thus confederated prosecuted their war against the United States to final arbitrament, and did not cease until all their armies were captured, their military power destroyed, their civil officers, state and confederate, taken prisoners or put to flight, every vestige of state and confederate government obliterated, their territory overrun and occupied by the federal armies, and their people reduced to the condition of enemies conquered in war, entitled only by public law to such rights, privileges, and conditions as might be vouchsafed by the conqueror. This position is also established by judicial decisions, and is recognized by the President in public proclamations, documents, and speeches.

"3d. Having voluntarily deprived themselves of representation in Congress for the criminal purpose of destroying the Federal Union, and having reduced themselves, by the act of levying war, to the condition of public enemies, they have no right to complain of temporary exclusion from Congress; but, on the contrary, having voluntarily renounced the right to representation, and disqualified themselves by crime from participating in the government, the burden now rests upon them, before claiming to be reinstated in their former condition, to show that they are qualified to resume federal relations. In order to do this, they must prove that they have established, with the consent of the people, republican forms of government in harmony with the Constitution and laws of the United States, that all hostile purposes have ceased, and should give adequate guarantees against future treason and rebellion—guarantees which shall prove satisfactory to the government against which they rebelled, and by whose arms they were subdued.

"4th. Having, by this treasonable withdrawal from Congress, and by flagrant rebellion and war, forfeited all civil and political rights and privileges under the Constitution, they can only be restored thereto by the permission and authority of that constitutional power against which they rebelled and by which they were subdued.

"5th. These rebellious enemies were conquered by the people of the United States, acting through all the co-ordinate branches of the government, and not by the executive department alone. The powers of conqueror are not so vested in the President that he can fix and regulate the terms of settlement, and confer congressional representation on conquered rebels and traitors. Nor can he in any way qualify enemies of the government to exercise its law-making power. The authority to restore rebels to political power in the federal government can be exercised only with the concurrence of all the departments in which political power is vested; and hence the several proclamations of the President to the people of the Confederate States can not be considered as extending beyond the purposes declared, and can only be regarded as provisional permission by the commander-in-chief of the army to do certain acts, the effect and validity whereof is to be determined by the constitutional government, and not solely by the executive power.

"6th. The question before Congress is, then, whether conquered enemies have the right, and shall be permitted, at their own pleasure and on their own terms, to participate in making laws for their conquerors; whether conquered rebels may change their theatre of operations from the battle-field, where they were defeated and overthrown, to the halls of Congress, and, through their representatives, seize upon the government which they fought to destroy; whether the national treasury, the army of the nation, its navy, its forts and arsenals, its whole civil administration, its credit, its pensioners, the widows and orphans of those who perished in the war, the public honor, peace, and safety, shall all be turned over to the keeping of its recent enemies without delay, and without imposing such conditions as, in the opinion of Congress, the security of the country and its institutions may demand.

"7th. The history of mankind exhibits no examples of such madness and folly. The instinct of self-preservation protests against it. The surrender by Grant to Lee, and by Sherman to Johnston, would have been disasters of less magnitude, for new armies could have been raised, new battles fought, and the government saved. The anti-coercive policy, which, under pretext of avoiding bloodshed, allowed the rebellion to take form and gather force, would be surpassed in infamy by the matchless wickedness that would now surrender the halls of Congress to those so recently in rebellion, until proper precautions shall have been taken to secure the national faith and the national safety.

"8th. As has been shown in this report, and in the evidence submitted, no proof has been afforded by Congress of a constituency in any one of the so-called Confederate States, unless we except the State of Tennessee, qualified to elect senators and representatives in Congress. No state Constitution, or amendment to a state Constitution, has had the sanction of the people. All the so-called legislation of state Conventions and Legislatures has been had under military dictation. If the President may, at his will, and under his own authority, whether as military commander or chief executive, qualify persons to appoint senators and elect representatives, and empower others to appoint and elect them, he thereby practically controls the organization of the legislative department. The constitutional form of government is thereby practically destroyed, and its powers absorbed in the executive. And while your committee do not for a moment impute to the President any such design, but cheerfully concede to him the most patriotic motives, they can not but look with alarm upon a precedent so fraught with danger to the republic.

"9th. The necessity of providing adequate safeguards for the future, before restoring the insurrectionary states to a participation in the direction of public affairs, is apparent from the bitter hostility to the government and people of the United States yet existing throughout the conquered territory, as proved incontestably by the testimony of many witnesses and by undisputed facts.

"10th. The conclusion of your committee therefore is, that the so-called Confederate States are not at present entitled to representation in the Congress of the United States; that, before allowing such representation, adequate security for future peace and safety should be required; that this can

mulated volumes of testimony in regard to the condition of the Southern States. That was proper enough, but it was not necessary to wait for the development of all this evidence before submitting to Congress the measures which it finally proposed. By the delay of Congress to declare its policy, its measures did not come before the country until after the conflict between the President and Congress had produced dissensions in the Republican party, increased agitation throughout the country, and exaggerated the contumacious spirit of the Southern people to such an extent as to greatly diminish the prospect that the latter would accede to the conditions offered for its acceptance. Early in the session the resistance to the Congressional plan of restoration would not have been formidable; now it was plain that it would be resisted by the executive, by the Southern States, and by a large portion of the Republican party. This delay was only less unfortunate in its consequences than the President's hasty action and his failure to convene Congress at the beginning of his administration.

Some time before the full report of the Reconstruction Committee, the latter had presented a concurrent resolution declaring "that, in order to close agitation upon a question which seems likely to disturb the action of the government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven states which have been declared to be in insurrection, no senator or representative shall be admitted into either branch of Congress from any of the said states until Congress shall have declared such state entitled to such representation." As usual, Stevens cut off debate in the House by demanding the previous question, and the resolution was adopted in that body without discussion, 109 to 40.[1]

It was a strange measure, when considered in reference to its declared purpose, "to close agitation" and "to quiet the uncertainty" of the unrepresented section! The reasons which induced the committee to introduce this resolution were more clearly stated by Fessenden in the Senate, where the measure was debated at length, than in the resolution itself. In his speech upon the resolution, Senator Fessenden confessed that the committee introduced the resolution because President Johnson had denounced it as "an irrepressible central directory" in which was lodged the concentrated power of a few, and because in his veto (February 19th) of the Freedman's Bureau Bill he had indicated "that no legislation affecting the states which have recently been in rebellion would meet with the approval of the President while those states were not represented." Under these circumstances, he thought the resolution necessary "in order that Congress may assert distinctly its own rights and its own powers; in order that there may be no mistake any where, in the mind of the executive or in the minds of the people of this country, that Congress, under the circumstances of this case, with this attempted limitation of its powers with regard to its own organization, is prepared to say to the executive and to the country, respectfully but firmly, over this subject they have, and they mean to exercise, the most plenary jurisdiction; they will be limited with regard to it by no considerations arising from the views of others than themselves, except so far as those considerations may affect the minds of individuals; we will judge for ourselves not only upon credentials, and the character of men and the position of men, but upon the position of the states which sent those men here. In other words, to use the language of the President again, when the question is to be decided whether they obey the Constitution, whether they have a fitting Constitution of their own, whether they are loyal, whether they are prepared to obey the laws as a preliminary, as the President says it is, to their admission, we will say whether those preliminary requirements have been complied with, and not he, and nobody but ourselves." The war, admitted the senator, was not commenced with the idea of subjugation; "but if subjugation must come in order to accomplish what we desire to accomplish and what we must accomplish, it is not our fault." We could not, he added, consider the country safe when the President himself does not withdraw his suspension of the writ of *habeas corpus*.

Senator Sherman, of Ohio, followed in opposition to the resolution. He did not differ from Fessenden as to the power of Congress or as to the propriety of the two houses acting in concert upon this subject of admitting Southern representatives. He considered the adoption of the resolution, therefore, as unnecessary, and as calculated to increase rather than to close agitation. The true way to assert the proper powers of Congress was to exercise them. He held that the real difficulty in this whole matter had been the unfortunate failure of the executive and legislative branches of the government to agree upon the plan of reconstruction. The blame on this account did not rest wholly with the President. If Congress had, at its last session, provided a law by which these states might be guided in their efforts toward restoration, the controversy would have been at an end. He alluded to the Wade and Davis bill, which had been passed at the first session of the Thirty-eighth Congress,[1] but which failed to receive the signature of President Lincoln. Here Senator Sumner remarked that President Lincoln, in an interview with him, had expressed his regret that he had not accepted that bill. Sherman thought every patriotic citizen would express his regret not so much that the President did not approve that bill, but that Congress did not, in connection with the President, agree upon some plan for reconstruction. Why, he asked, now arraign Andrew Johnson for following out the plan which he deemed best, especially when it was the same plan which had been adopted by Lincoln, and which had the apparent ratification of the people in Lincoln's re-election? "One whole session intervened after this vote, as I may call it, of President Lincoln, and no effort was made by Congress to reconcile this conflict of views; and when President Johnson came suddenly, by the hand of an assassin, into the presidential chair, what did he have before him to guide his steps? The forces of the rebellion had been subdued; all physical resistance was soon after subdued. . . . . Who doubts, then, that if there had been a law upon the statute-book by which the people of the Southern States could have been guided in their efforts to come back into the Union, they would have cheerfully followed it, although the conditions had been hard?" Lincoln and Johnson had both been obliged to follow out a plan of their own. We might find fault with the conditions imposed by them, but Lincoln's plan had been substantially sanctioned by the people in his re-election. At the very time Johnson was nominated for Vice-President he was, as military governor of Tennessee, executing the very plan which he subsequently adopted as President. There was now no difference between the President and Congress as to the condition of the Southern States. By both they were treated as states in insurrection, but still as states. It only remained for Congress to provide a method by which the condition of states might be tested, and they might come back, one by one, each upon its own merits, upon complying with such conditions as the public safety demands. Senator Sherman then proceeded to explain the policy which Johnson had adopted. He had retained Lincoln's cabinet, and had thus far received its full support. He had executed every law passed by Congress. He had in his proclamations adopted almost the precise words used by Lincoln in like cases, only that he had extended and made more severe the policy of the latter. In carrying out his plans he had adopted all the main features of the Wade and Davis bill—the only law bearing upon the subject ever passed by Congress. In his amnesty proclamation of May 29th he had excepted from pardon some fourteen classes of persons, "more than quadrupling the exceptions of the previous proclamation of Mr. Lincoln; so that, if there was any departure in this connection from the policy adopted by Mr. Lincoln, it was a departure against the rebels, and especially against those wealthy rebels who gave life, and soul, and power to the rebellion." He had required of the Southern States the adoption of the constitutional amendment abolishing slavery, had enforced the test oath in the case of every officer receiving his commission under the law, and had insisted upon the full protection of the freedmen. Now what were the objections to this policy? It was said that the pardoning power had been abused; but this power had been sanctioned by Congressional enactment. It was also objected that Johnson had not extended the suffrage to negroes; but there were only six of the Northern States in which negroes had the right to vote, and until the present session the proposition to give negroes this right in the District of Columbia had never been seriously considered, although Congress had complete jurisdiction over the district. Even in the Territories, also under the unrestricted jurisdiction of Congress, the franchise had never been extended to the colored race. In the Wade and Davis bill Congress expressly refused to make negro suffrage a part of their plan.

We have given Senator Sherman's arguments so much space not only on account of his recognized position as one of the most eminent statesmen of the country, but because they furnish the fullest possible defense of President Johnson's policy. This defense was just, so far as it went, but still it must be remembered that the senator's argument entirely ignored the peculiar features of the political situation at the time he spoke. The President's policy could not be separated from the President's conduct of that policy. Johnson had not confined himself to issuing proclamations and to vetoes of Congressional enactments. He had in an unbecoming manner entered into a bitter antagonism with Congress in occasional harangues before the people. Perhaps Sherman paid less regard to the objectionable features of the President's conduct because these features had not as yet assumed their peculiarly offensive character. Sherman defended the President in

only be found in such changes of the organic law as shall determine the civil rights and privileges of all citizens in all parts of the republic, shall place representation on an equitable basis, shall fix a stigma upon treason, and protect the loyal people against future claims for the expenses incurred in support of rebellion and for manumitted slaves, together with an express grant of power in Congress to enforce those provisions. To this end they offer a joint resolution for amending the Constitution of the United States, and the two several bills designed to carry the same into effect, before referred to.

"Before closing this report, your committee beg leave to state that the specific recommendations submitted by them are the result of mutual concession, after a long and careful comparison of conflicting opinions. Upon a question of such magnitude, infinitely important as it is to the future of the republic, it was not to be expected that all should think alike. Sensible of the imperfections of the scheme, your committee submit it to Congress as the best they could agree upon, in the hope that its imperfections may be cured, and its deficiencies supplied by legislative wisdom; and that, when finally adopted, it may tend to restore peace and harmony to the whole country, and to place our republican institutions on a more stable foundation.

"W. P. FESSENDEN, ELIHU B. WASHBURNE,
"JAMES W. GRIMES, JUSTIN S. MORRILL,
"IRA HARRIS, JOHN A. BINGHAM,
"J. M. HOWARD, ROSCOE CONKLING,
"GEORGE H. WILLIAMS, GEORGE S. BOUTWELL."
"THADDEUS STEVENS,

[1] YEAS.—Messrs. Allison, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Dawes, Defrees, Deming, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hays, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Laflin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McIndoe, McKee, McRuer, Mercur, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, John H. Rice, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—109.

NAYS.—Messrs. Bergen, Boyer, Brooks, Chanler, Coffroth, Dawson, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Hale, Aaron Harding, Hogan, James M. Humphrey, Kerr, Latham, Marshall, McCullough, Newell, Niblack, Nicholson, Phelps, Radford, Samuel J. Randall, Raymond, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Taber, Taylor, Thornton, Trimble, Voorhees, Whaley, and Wright—40.

NOT VOTING.—Messrs. Alley, Ames, Ancona, Delos R. Ashley, Barker, Blow, Bundy, Reader W. Clarke, Culver, Darling, Davis, Delano, Denison, Dixon, Dumont, Harris, Hill, Edwin N. Hubbell, James Humphrey, Johnson, Jones, Kasson, Kuykendall, Le Blond, Marvin, Miller, Noell, Alexander H. Rice, Rollins, Stillwell, Strouse, Francis Thomas, Robert T. Van Horn, and Winfield—34.

[1] See page 660 of this History.

February, 1866—what his judgment would have been five months later is another question.

Notwithstanding his speech, Sherman voted in favor of the resolution, which was passed 29 to 18.[1]

The House on the 19th, and the Senate on the 21st of July, passed a resolution declaring the State of Tennessee entitled to representation in Congress, that state having ratified the constitutional amendment proposed by the Thirty-ninth Congress. The President signed the resolution on the 24th, and at the same time sent a message to the House, scolding Congress for its previous contumacy, and denying its right to pass laws preliminary to the admission of duly qualified members from any of the states. The members elected from Tennessee were then duly qualified.

Two important bills were passed during this session, having for their principal object the protection of freedmen, both of which were vetoed by the President, but afterward became laws by a two-thirds vote.

The first of these was a bill to enlarge the powers of the Freedmen's Bureau. This bureau had been established by the previous Congress, while the war was still in progress, and was styled "a Bureau of Refugees, Freedmen, and Abandoned Lands."[2] It passed Congress March 3d, 1867, and received within the week following the approval of President Lincoln, who appointed Major General O. O. Howard as commissioner. This choice was very judicious, as General Howard was not only an able military officer, but had also a thorough knowledge of the South, and of the special duties of the office to which he was assigned. He was, moreover, a conscientious Christian gentleman. He was retained at the head of the bureau by President Johnson. The abandoned lands consisted of some 770,000 acres of lands scattered over the Southern States, the most valuable portion of which were the sea islands off the South Carolina coast, which had been given to the freedmen by General Sherman, acting in consultation with the Secretary of War.

By President Johnson's amnesty proclamation the most valuable lands were restored to their original owners, and this circumstance seriously embarrassed the operations of the bureau. Notwithstanding this obstacle, however, the bureau proved a beneficent institution to the freed slave and refugee. It secured them many educational privileges hitherto denied, stood between them and the avarice of their employers, and provided medical relief to their sick, and assistance to the old and decrepit. Great opposition was manifested to the education of freedmen. The educational statistics of October 31, 1865, show that there were at that time 560 schools in operation, with 1135 teachers, and 68,241 pupils. Toward the close of the year, General Howard estimated the number of persons receiving rations from the bureau at 45,035, which he thought would be increased during the ensuing winter to 100,000. The expenses of the bureau for 1865 amounted to nearly $12,000,000.

The bill enlarging the powers of the Freedmen's Bureau passed the Senate January 24, 1866, by a party vote. A substitute for this bill passed the House, which was subsequently accepted by the Senate. This bill continued in force the bureau until otherwise ordered by law, and provided for its extension to freedmen and refugees in all parts of the United States, the entire section containing such persons to be divided into twelve districts, over each of which an assistant commissioner should preside. These districts, in turn, were to be subdivided, so that there should be one for each county or parish, each of which was to be controlled by an agent. It provided for the issue by the Secretary of War of provisions, clothing, fuel, and other supplies, including medical stores and transportation; and that the secretary might afford such aid as was necessary for the temporary shelter and supply of destitute freedmen and refugees, with their wives and children. The President was authorized to reserve from sale and set apart unoccupied public lands in the South for the use of freedmen and loyal refugees, the amount thus appropriated not to exceed three millions of acres of good land, to be allotted in parcels of not more than forty acres each, the tenants to be protected in the use thereof for such time and at such rental as should be agreed upon between the commissioners and freedmen. This land might ultimately be purchased by the occupants. Those occupying land under General Sherman's special order of January 16, 1865, were confirmed in possession for three years. This act also provided for the erection of asylums and schools. It also contained provisions for the protection of the civil rights of freedmen.[1]

This bill was vetoed by the President February 19th, 1866. His objections may be briefly stated thus:

1. The act was unnecessary, the original act not having yet expired. That act was considered sufficiently stringent in time of war. Before its expiration, farther experience may lead to a wise policy for a time of peace.

2. The act contained provisions not warranted by the Constitution. It substituted military for civil tribunals, and military law for civil law in time of peace.

3. The exercise of such arbitrary power by so vast a number of agents must be attended by acts of caprice, injustice, and passion. From these officers of the bureau there was no appeal.

4. The continuance of this military establishment was not limited to any definite period of time.

5. While it was intended to protect the negro, it deprived other citizens of constitutional rights. "I can not," said the President, "reconcile a system of military jurisdiction of this kind with the words of the Constitution, which declare that 'no person shall be held to answer for a capital or otherwise infamous crime unless upon a presentment or indictment of a grand jury, except in cases arising in the land and naval forces, or in the militia when in actual service in time of war or public danger;' and that 'in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state or district wherein the crime shall have been committed.'"

6. It placed too much power in the hands of the President. It would enable him to control four millions of people for his own political ends.

7. A system for the support of indigent persons in the United States was never contemplated by the framers of the Constitution, nor could any good reason be given why it should be founded for one class of our people more than another. The idea on which the slaves were assisted to freedom was that, on becoming free, they would be a self-sustaining population.

8. It was an expensive system.

9. It deprived the rightful owners of certain lands of their property without due process of law.

10. It was injurious to the freedman, encouraging him to entertain idle and vague expectations.

11. Eleven states were still unrepresented, and these were the very states most nearly concerned in the operations of the bill.

The House passed the bill over the President's veto, but it failed to receive a two-thirds vote in the Senate, and thus failed to become a law. Before the end of May a new bill was presented in the House by Thomas D. Eliot, of Massachusetts, apparently obviating many of the objections which had been urged by the President against the former enactment. This new bill simply sought to supplement the act already in operation by provisions applicable to the altered situation since that act had been passed. It continued that act in force for two years; appropriated one million instead of three millions of acres for the use of the freedmen, and embodied the provisions of the Civil Rights Bill. This bill, after various amendments, passed both houses, and was presented to the President for his approval. On the 16th of July Johnson returned the bill with objections similar to those urged against the previous act. It was again passed in both houses by a two-thirds vote, and became a law.

In the mean time Congress had passed the Civil Rights Bill. This act was supported in both houses by the entire Republican party.[2] It was

[1] YEAS.—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Harris, Henderson, Howe, Kirkwood, Lane of Indiana, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Wade, Willey, Williams, Wilson, and Yates—29.

NAYS.—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Guthrie, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Nesmith, Norton, Riddle, Saulsbury, Stewart, Stockton, and Van Winkle—18.

ABSENT.—Messrs. Foot, Howard, and Wright—3.

[2] The bill established in the War Department for the war and one year thereafter a Bureau of Refugees, Freedmen, and Abandoned Lands, for the supervision and management of all abandoned lands, and the control of all subjects relating to refugees and freedmen from rebel states, or from any district of the country within the territory embraced in the operations of the army, under rules to be approved by the President. The bureau to have a commissioner at $3000 year, and $50,000 bonds, with an assistant commissioner for each rebel state, not exceeding ten, at $2500 a year, and $20,000 bonds. The assistants to make quarterly reports to the commissioner, and he a report at each session of Congress.

Section 2 authorizes the Secretary of War to direct such issues of provisions, clothing, and fuel as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen, and their wives and children, under such rules and regulations as he may direct.

The bill also gives the commissioner, under the direction of the President, authority to set apart for the use of loyal refugees and freedmen such tracts of land within the insurrectionary states as shall have been abandoned, or to which the United States shall have acquired title by confiscation, or sale, or otherwise. And to every male citizen, whether refugee or freedman, as aforesaid, there shall be assigned not more than forty acres of such land, and the persons to whom it is so assigned shall be protected in the use and enjoyment of the land for the term of three years, at an annual rent not exceeding six per cent. upon the value of said land as it was appraised by the state authorities in 1860 for the purpose of taxation, and in case no such appraisal can be found, then the rental shall be based upon the estimated value of the land in said year, to be ascertained in such manner as the commissioner may, by regulation, prescribe. At the end of said term, or at any time during said term, the occupants of any parcels so assigned may purchase the land and receive such title thereto as the United States can convey upon paying therefor the value of the land, as ascertained and fixed for the purpose of determining the annual rent as aforesaid.

[1] "*Sec.* 7. That whenever in any state or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, and wherein, in consequence of any state or local law, ordinance, police or other regulation, custom, or prejudice, any of the civil rights or immunities belonging to white persons, including the right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings for the security of person and estate, including the constitutional right of bearing arms, are refused or denied to negroes, mulattoes, freedmen, refugees, or any other persons, on account of race, color, or any previous condition of slavery or involuntary servitude, or wherein they or any of them are subjected to any other or different punishment, pains, or penalties for the commission of any act or offense than are prescribed for white persons committing like acts or offenses, it shall be the duty of the President of the United States, through the commissioner, to extend military protection and jurisdiction over all cases affecting such persons so discriminated against.

"*Sec.* 8. That any person who, under color of any state or local law, ordinance, police, or other regulation or custom, shall, in any state or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, subject, or cause to be subjected, any negro, mulatto, freedman, refugee, or other person, on account of race or color, or any previous condition of slavery or involuntary servitude, or for any other cause, to the deprivation of any civil right secured to white persons, or to any other or different punishment than white persons are subject to for the commission of like acts or offenses, shall be deemed guilty of a misdemeanor, and be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both; and it shall be the duty of the officers and agents of this bureau to take jurisdiction of, and hear and determine all offenses committed against the provisions of this section, and also of all cases affecting negroes, mulattoes, freedmen, refugees, or other persons who are discriminated against in any of the particulars mentioned in the preceding section of this act, under such rules and regulations as the President of the United States, through the War Department, shall prescribe. The jurisdiction conferred by this and the preceding section on the officers and agents of this bureau shall cease and determine whenever the discrimination on account of which it is conferred ceases, and in no event to be exercised in any state in which the ordinary course of judicial proceedings has not been interrupted by the rebellion, nor in any such state after said state shall have been fully restored in all its constitutional relations to the United States, and the courts of the state and of the United States within the same are not disturbed or stopped in the peaceable course of justice."

[2] The following is the text of the bill:

"*Be it enacted, etc.*, 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; and such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right in every state and territory in the United States to make and enforce contracts; to sue, be parties, and give evidence; to inherit, purchase, lease, sell, hold, and convey real estate and personal property; and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding.

"*Sec.* 2. That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any state or territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by

vetoed by the President March 27, 1866. This veto was not based upon sound reasoning, and the message of the President totally disregarded the obvious necessity of the Congressional enactment. The bill was again passed by both houses over the executive veto.

A bill was passed early in May admitting Colorado as a state, but it was vetoed by the President on the ground that it was doubtful whether the majority of the people of that Territory desired a state government, that the population was insufficient, and that, until the Southern section of the country was represented in Congress, it was undesirable to admit new states. The bill was not repassed.

A bill was introduced early in the session to extend the right of suffrage to negroes in the District of Columbia. It passed the House, after an unsuccessful attempt on the part of a Republican member to obtain its postponement, by a vote of 116 to 54. It was not brought to a vote in the Senate until the next session, when it passed, was vetoed by the President, and on the 7th and 8th of January, 1867, was repassed by a two-thirds vote in the Senate and House.[1]

The first session of the Thirty-ninth Congress closed on the 28th of July, after a continuance of nearly eight months. During this period the political situation had been radically changed. When the Thirty-ninth Congress assembled, there was no strongly-marked popular dissatisfaction on account of the measures adopted by President Johnson in the early stages of reconstruction. Now the people murmured against the administration; the President had lost his hold upon the popular confidence. Radical Republicans now as vehemently denounced him as Copperheads had at the time of his inauguration. The latter, from calling him a boor, had come to grant him a place among the gods; the former, who had once shouted his praises to the echo, now not only took the scoffers' place, but boldly proclaimed him a traitor.

There had been in the ranks of the dominant party some apprehension of Johnson's policy at the outset, but it scarcely found a voice before the meeting of Congress. There was a feeling of insecurity, caused by the prospect of a too hasty admission of the Southern representatives to Congress, and enhanced by the half-hearted expression of loyalty on the part of the Southern Conventions and Legislatures; but this was to a great degree counteracted by the hope that Congress and the President would unite upon some plan by which harmony would soon be restored, the wounds occasioned by civil strife healed, and the national safety secured. No conflict between the executive and Congress—at least none which would prove irreconcilable—was apprehended. The war record of President Johnson, his vehement denunciation of treason, his oft-repeated expressions of deference to the popular will, and the fact that thus far he had been carrying out the policy of restoration which Lincoln had inaugurated, and had only modified that policy by severer features as against rebels—all these were taken as assurances that he, at least, would not be a ready party to such a conflict. And, on the other hand, the popular confidence in the wisdom of Congress was a source of encouragement. It was well known that there were in that body certain members who would push their extreme and impracticable theories to the utmost; but, if Sumner, and Stevens, and Boutwell, and Ashley were there, there also were Fessenden, Sherman, Trumbull, Colfax, Conkling, Doolittle, and Raymond. The factious disposition and the partisan fury of the few, it was thought, would be controlled and overruled by the unsectional patriotism of wiser and better-tempered statesmen.

But scarcely had Congress assembled before this feeling of assurance, this anticipation of harmony, began to be disturbed. We regret that we must attribute to President Johnson's policy so much of the responsibility for the discord—the more shameful because it was unnecessary—which now began to develop into the most violent antagonism. He had already established a basis for this conflict by not convening and consulting Congress at the outset. Undoubtedly he thought that the policy which he had adopted was supported by the people, and that nothing more than that was necessary. He had good reasons for judging thus. But, in carrying out this policy, some circumstances presented themselves to which he did not pay

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reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both, in the discretion of the court.

"*Sec.* 3. That the District Courts of the United States, within their respective districts, shall have, exclusively of the courts of the several states, cognizance of all crimes and offenses committed against the provisions of this act, and also, concurrently with the Circuit Courts of the United States, of all causes, civil and criminal, affecting persons who are denied or can not enforce in the courts or judicial tribunals of the state or locality where there may be any of the rights secured to them by the first section of this act; and if any suit or prosecution, civil or criminal, has been or shall be commenced in any state court against any such person, for any cause whatsoever, or against any officer, civil or military, or other person, for any arrest or imprisonment, trespasses, or wrongs done or committed by virtue or under color of authority derived from this act, or the act establishing a bureau for the relief of freedmen and refugees, and all acts amendatory thereof, or for refusing to do any act upon the ground that it would be inconsistent with this act, such defendant shall have the right to remove such cause for trial to the proper District or Circuit Court in the manner prescribed by the 'Act relating to *Habeas Corpus* and regulating Judicial Proceedings in certain cases,' approved March 3, 1863, and all acts amendatory thereof. The jurisdiction in civil and criminal matters hereby conferred on the District and Circuit Courts of the United States shall be exercised and enforced in conformity with the laws of the United States so far as such laws are suitable to carry the same into effect; but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the Constitution and statutes of the state wherein the court having jurisdiction of the cause, civil or criminal, is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern said courts in the trial and disposition of such cause, and, if of a criminal nature, in the infliction of punishment on the party found guilty.

"*Sec.* 4. That the district attorneys, marshals, and deputy marshals of the United States, the commissioners appointed by the Circuit Court and territorial courts of the United States, with powers of arresting, imprisoning, or bailing offenders against the laws of the United States, the officers and agents of the Freedmen's Bureau, and every other officer who may be specially empowered by the President of the United States, shall be, and they are hereby specially authorized and required, at the expense of the United States, to institute proceedings against all and every person who shall violate the provisions of this act, and cause him or them to be arrested and imprisoned, or bailed, as the case may be, for trial before such court of the United States or territorial court as by this act has cognizance of the offense. And with a view to affording reasonable protection to all persons in their constitutional rights of equality before the law, without distinction of race or color, or previous condition of slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, and to the prompt discharge of the duties of this act, it shall be the duty of the Circuit Courts of the United States and the Superior Courts of the Territories of the United States, from time to time to increase the number of commissioners, so as to afford a speedy and convenient means for the arrest and examination of persons charged with a violation of this act. And such commissioners are hereby authorized and required to exercise and discharge all the powers and duties conferred on them by this act, and the same duties with regard to offenses created by this act, as they are authorized by law to exercise with regard to other offenses against the laws of the United States.

"*Sec.* 5. That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act when to them directed; and should any marshal or deputy marshal refuse to receive such warrant or other process when tendered, or to use all proper means diligently to execute the same, he shall, on conviction thereof, be fined in the sum of one thousand dollars, to the use of the person upon whom the accused is alleged to have committed the offense. And the better to enable the said commissioners to execute their duties faithfully and efficiently, in conformity with the Constitution of the United States and the requirements of this act, they are hereby authorized and empowered, within their counties respectively, to appoint, in writing, under their hands, any one or more suitable persons, from time to time, to execute all such warrants and other process that may be issued by them in the lawful performance of their respective duties; and the persons so appointed to execute any warrant or process as aforesaid shall have authority to summon and call to their aid the by-standers or the *posse comitatus* of the proper county, or such portion of the land and naval forces of the United States, or of the militia, as may be necessary to the performance of the duty with which they are charged, and to insure a faithful observance of the clause of the Constitution which prohibits slavery, in conformity with the provisions of this act; and said warrants shall run and be executed by said officers any where in the state or territory within which they are issued.

"*Sec.* 6. That any person who shall knowingly and willfully obstruct, hinder, or prevent any officer, or other person charged with the execution of any warrant or process issued under the provisions of this act, or any person or persons lawfully assisting him or them, from arresting any person for whose apprehension such warrant or process may have been issued, or shall rescue or attempt to rescue such person from the custody of the officer, other person or persons, or those lawfully assisting as aforesaid, when so arrested pursuant to the authority herein given and declared, or shall aid, abet, or assist any person so arrested as aforesaid, directly or indirectly, to escape from the custody of the officer or other person legally authorized as aforesaid, or shall harbor or conceal any person for whose arrest a warrant or process shall have been issued as aforesaid, so as to prevent his discovery and arrest after notice or knowledge of the fact that a warrant has been issued for the apprehension of such person, shall, for either of said offenses, be subject to a fine not exceeding one thousand dollars, and imprisonment not exceeding six months, by indictment and conviction before the District Court of the United States for the district in which said offense may have been committed, or before the proper court of criminal jurisdiction, if committed within any one of the organized territories of the United States.

"*Sec.* 7. That the district attorneys, the marshals, their deputies, and the clerks of the said District and Territorial Courts shall be paid for their services the like fees as may be allowed to them for similar services in other cases; and in all cases where the proceedings are before a commissioner, he shall be entitled to a fee of ten dollars in full for his services in each case, inclusive of all services incident to such arrest and examination. The person or persons authorized to execute the process to be issued by such commissioners for the arrest of offenders against the provisions of this act shall be entitled to a fee of five dollars for each person he or they may arrest and take before any such commissioner as aforesaid, with such other fees as may be deemed reasonable by such commissioner for such other additional services as may be necessarily performed by him or them, such as attending at the examination, keeping the prisoner in custody, and providing him with food and lodging during his detention, and until the final determination of such commissioner, and in general for performing such other duties as may be required in the premises; such fees to be made up in conformity with the fees usually charged by the officers of the courts of justice within the proper district or county, as near as may be practicable, and paid out of the treasury of the United States on the certificate of the judge of the district within which the arrest is made, and to be recoverable from the defendant as part of the judgment in case of conviction.

"*Sec.* 8. That whenever the President of the United States shall have reason to believe that offenses have been, or are likely to be committed against the provisions of this act within any judicial district, it shall be lawful for him, in his discretion, to direct the judge, marshal, and district attorney of such district to attend at such place within the district, and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons charged with a violation of this act; and it shall be the duty of every judge or other officer, when any such requisition shall be received by him, to attend at the place and for the time therein designated.

"*Sec.* 9. That it shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation and enforce the due execution of this act.

Sec. 10. That upon all questions of law arising in any cause under the provisions of this act, a final appeal may be taken to the Supreme Court of the United States."

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[1] The following is the text of this enactment:

"*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That from and after the passage of this act, each and every male person, excepting paupers and persons under guardianship, of the age of twenty-one years and upward, who has not been convicted of any infamous crime or offense, and excepting persons who may have voluntarily given aid and comfort to the rebels in the late rebellion, and who shall have been born or naturalized in the United States, and who shall have resided in the said District for the period of one year, and three months in the ward or election precinct in which he shall offer to vote next preceding any election therein, shall be entitled to the elective franchise, and shall be deemed an elector, and entitled to vote at any election in said District, without any distinction on account of color or race.

"SEC. 2. *And be it further enacted*, That any person whose duty it shall be to receive votes at any election within the District of Columbia, who shall willfully refuse to receive, or who shall willfully reject, the vote of any person entitled to such right under this act, shall be liable to an action of tort by the person injured, and shall be liable, on indictment and conviction, if such act was done knowingly, to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding one year in the jail of said District, or to both.

"SEC. 3. *And be it further enacted*, That if any person or persons shall willfully interrupt or disturb any such elector in the exercise of such franchise, he or they shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not to exceed one thousand dollars, or be imprisoned in the jail in said District for a period not to exceed thirty days, or both, at the discretion of the court.

"SEC. 4. *And be it further enacted*, That it shall be the duty of the several courts having criminal jurisdiction in said District to give this act in special charge to the grand jury at the commencement of each term of the court next preceding the holding of any general or city election in said District.

"SEC. 5. *And be it further enacted*, That the mayors and aldermen of the cities of Washington and Georgetown respectively, on or before the first day of March in each year, shall prepare a list of the persons they judge to be qualified to vote in the several wards of said cities in any election: and said mayors and aldermen shall be in open session to receive evidence of the qualification of persons claiming the right to vote in any election therein, and for correcting said list, on two days in each year, not exceeding five days prior to the annual election for the choice of city officers, giving previous notice of the time and place of each session in some newspaper printed in said District.

"SEC. 6. *And be it further enacted*, That on or before the first day of March, the mayors and aldermen of said cities shall post up a list of voters thus prepared in one or more public places in said cities respectively, at least ten days prior to said annual election.

"SEC. 7. *And be it further enacted*, That the officers presiding at any election shall keep and use the check-list herein required at the polls during the election of all officers, and no vote shall be received unless delivered by the voter in person, and not until the presiding officer has had opportunity to be satisfied of his identity, and shall find his name on the list, and mark it, and ascertain that his vote is single.

"SEC. 8. *And be it further enacted*, That it is hereby declared unlawful for any person, directly or indirectly, to promise, offer, or give, or procure, or cause to be promised, offered, or given, any money, goods, right in action, bribe, present, or reward, or any promise, understanding, obligation, or security for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or any other valuable thing whatever, to any person with intent to influence his vote to be given at any election hereafter to be held within the District of Columbia; and every person so offending shall, on conviction thereof, be fined in any sum not exceeding two thousand dollars, or imprisoned not exceeding two years, or both, at the discretion of the court.

"SEC. 9. *And be it further enacted*, That any person who shall accept, directly or indirectly, any money, goods, right in action, bribe, present, or reward, or any promise, understanding, obligation, or security, for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or any other valuable thing whatever, to influence his vote at any election hereafter to be held in the District of Columbia, shall, on conviction, be imprisoned not less than one year, and be forever disfranchised.

"SEC. 10. *And be it further enacted*, That all acts and parts of acts inconsistent with this act be, and the same is hereby repealed."

sufficient regard. He had thrown the burden of reconstruction upon the Southern people, which was right. But they had not taken up this burden in the proper spirit; he was himself dissatisfied, and he must have known that the loyal people would not be less so; yet, although he had expressed his disappointment, he had shown a lack of firmness and of judgment in allowing this spirit to have full sway; in finally sanctioning it by his assent, however reluctant, and without consultation with Congress; in encouraging the idea that the Southern States might hope for representation in that body on the basis of their imperfectly expressed allegiance. Congress, with good reason, felt aggrieved by this action of the President.

Congress, upon its meeting, did exactly what it would have done if Lincoln had been President. It appointed a joint committee to investigate the whole subject. Upon mature consideration, it felt that it could not, with a proper regard to the national safety, respond to the expectations which the President had encouraged the Southern people to entertain. Thus the divergence between the executive and Congress began. On the part of the majority there was no misconstruction of the motives of the President and no ill temper; but there were some members who could not refrain from denouncing "the man at the other end of the avenue." Stevens went so far as to say that the President's usurpation of authority was no less heinous a crime than that which had cost Charles the First his head.

And just here it was that President Johnson began to show his most extraordinary lack of judgment. Harmony of action was still possible between the two branches of government. The only necessity on the President's part was that he should keep his temper. Whether he ought to have kept or abandoned his policy may be a debatable question, about which much might be said on both sides; but certainly he ought not to have lost his temper and self-control, since that loss would prove fatal alike to his own good fame and to his policy. Unfortunately, Johnson belonged to that class of politicians who can never refuse a challenge to antagonism, and foolishly took up the gauntlet which Stevens had so adroitly flung. The challenge did not come from Congress. It did come from a man who, without self-conceit, could boast that he had the power arbitrarily to control the debates of the House, but that was no excuse for such an acceptance of the challenge by the President of the United States as that into which Johnson was betrayed in his speech at Washington on the 22d of February, 1866. He then and there publicly declared that, after one rebellion had been subdued, another had just begun. An attempt, he said, was being made "to concentrate all power in the hands of a few at the federal head, and thereby bring about a consolidation of the republic, which is equally objectionable with its dissolution. We find a power assumed and attempted to be exercised of a most extraordinary character. We see now that governments can be revolutionized without going into the battle-field, and sometimes the revolutions most distressing to a people are effected without the shedding of blood; that is, the substance of your government may be taken away, while there is held out to you the form and the shadow. And now, what are the attempts, and what is being proposed? We find that by an irresponsible central directory nearly all the powers of Congress are assumed, without even consulting the legislative and executive departments of the government. By a resolution reported by a committee, upon whom and in whom the legislative power of the government has been lodged, that great principle in the Constitution which authorizes and empowers the legislative department, the Senate and House of Representatives, to be the judges of elections, returns, and qualifications of its own members, has been virtually taken away from the two respective branches of the national Legislature, and conferred upon a committee, who must report before the body can act on the question of the admission of members to their seats. By this rule they assume a state is out of the Union, and to have its practical relations restored by that rule before the House can judge of the qualifications of its own members. What position is that? You have been struggling for four years to put down a rebellion. You contended at the beginning of that struggle that a state had not a right to go out. You said it had neither the right nor the power, and it has been settled that the states had neither the right nor the power to go out of the Union. And when you determine by the executive, by the military, and by the public judgment that these states can not have any right to go out, this committee turns around and assumes that they are out, and that they shall not come in." In this strain the President continued. Not satisfied with denouncing a proceeding of Congress which was evidently proper, and the purport of which he wholly misconstrued, he, in answer to a call from the crowd, went so far as to mention the names of Thaddeus Stevens, Charles Sumner, and Wendell Phillips as men "opposed to the fundamental principles of the government, and now laboring to destroy them." He called the Secretary of the Senate a "dead duck." He said he did not intend to be governed by real or pretended friends, nor to be bullied by his enemies. When he was beheaded, like Charles the First, he wanted the American people to be the witness. He foolishly attached serious importance to Stevens's equally foolish insinuation about his deserving execution. "I do not want," he said, "by innuendoes of an indirect character in high places, to have one say to a man who has assassination broiling in his heart, 'there is a fit subject,' and also exclaim that the 'presidential obstacle' must be got out of the way, when possibly the intention was to institute assassination. Are those who want to destroy our institutions and change the character of the government not satisfied with the blood that has been shed? Are they not satisfied with one martyr? Does not the blood of Lincoln appease the vengeance and wrath of the opponents of this government? Is their thirst still unslaked? Do they want more blood? Have they not honor and courage enough to effect the removal of the presidential obstacle otherwise than through the hands of the assassin? I am not afraid of assassins; but if it must be, I would wish to be encountered where one brave man can oppose another. I hold him in dread only who strikes cowardly. But if they have courage enough to strike like men (I know they are willing to wound, but they are afraid to strike)—if my blood is to be shed because I vindicate the Union and the preservation of this government in its original purity and character, let it be so; but when it is done, let an altar of the Union be erected, and then, if necessary, lay me upon it, and the blood that now warms and animates my frame shall be poured out in a last libation as a tribute to the Union; and let the opponents of this government remember that when it is poured out the blood of the martyr will be the seed of the Church. The Union will grow. It will continue to increase in strength and power, though it may be cemented and cleansed with blood."

Nothing could have been more unwise than this speech of Johnson's. He showed himself too ready to answer vituperation with vituperation. It was the speech of a demagogue and not of a statesman. It manifested his incapacity to become a popular leader, whatever might be the merits of his policy.

Thus the conflict progressed and continually increased in bitterness. Johnson committed himself to it with gladiatorial eagerness. He was in no fit temper to listen to the wisest and most potent arguments which Congress might suggest. All hope of reconciliation soon disappeared. In his veto messages he plumply denied the right of Congress to adopt legislative measures preliminary to the admission of duly qualified members from the Southern States, and Congress, in its turn, denied his right to adopt the measures which he had adopted preliminary to his recognition of those states. The appeal, therefore, was to the people.

The Republican party was divided. The people were divided, and it appeared for a long time difficult to decide whether its verdict would be for the executive or for Congress. In the mean time, a decision had been rendered by the Supreme Court of the United States against the constitutionality of test oaths. Certain Republicans in Washington, coinciding with the views of the President, formed an organization known as the "National Union Club." This organization was subsequently united with another of similar character in Washington, and a National Union executive committee was appointed. On the 23d of May the members of this league serenaded the President and the officers of his cabinet to elicit an expression of views on the existing crisis. In most cases, and especially in that of Secretary McCulloch, the ministerial advisers of the President sustained his policy of restoration. Secretary Stanton did not commit himself. He said that "no one better than Johnson understood the solemn duty imposed upon the national executive to maintain the national authority, vindicated at so great a sacrifice, and the obligation not to suffer the just fruits of so many battles and victories to slip away or turn to ashes." After a calm and full discussion, he said that he had yielded to the President's opinion against negro suffrage. He distinctly declared that the plan reported by the Congressional Committee on Reconstruction did not receive his assent. Postmaster General Dennison regretted the difference between the President and Congress. He did not believe it rested upon any good reasons, and thought that time and discussion would bring reconciliation. Secretary Seward was absent at Auburn, New York, but he there indulged in a frank expression of his views. He was hopeful—"hopeful of the President, hopeful of Congress, hopeful of the National Union party, hopeful of the unrepresented states—above all, hopeful of the favor of Almighty God." He ought ever afterward to be styled "Secretary Hopeful."

On the 25th of June a call was issued for a National Union Convention, to be composed of at least two delegates from each Congressional District in every state, two from each Territory, two from the District of Columbia, and four delegates at large from each of the states, to meet at Philadelphia August 14. This call was signed by A. W. Randall, J. R. Doolittle, O. H. Browning, Edgar Cowan, Charles Knapp, and Samuel Fowler, members of the executive committee of the National Union Club. The delegates, however, were to agree upon the following principles: That the Union could not be dissolved even by Congressional action; that each state has the undoubted right to prescribe the qualifications of its own electors, and no external power rightfully can or ought to dictate, control, or influence the free and voluntary action of the states in the exercise of that right; that the maintenance inviolate of the rights of the states, and especially of the right of each state to order and control its own domestic concerns, according to its own judgment exclusively, subject only to the Constitution of the United States, is essential to the balance of power on which the perfection and endurance of our political fabric depend, and the overthrow of that system by the usurpation and centralization of power in Congress would be a revolution dangerous to republican government and destructive of liberty; and that each house of Congress is made, by the Constitution, the sole judge of the elections, returns, and qualifications of its members; but the exclusion of loyal senators and representatives, properly chosen and qualified under the Constitution and laws, is unjust and revolutionary.

This call was followed on the 4th of July by an address to the people, signed by 41 Democratic members of Congress, who approved the call and the principles therein set forth. The executive committee addressed letters to each member of the cabinet, to obtain, in reply, an expression of their views as to the propriety of such a Convention, and as to the principles upon which the call had been based. Seward replied that he considered restoration the most vital interest of the country. Nothing could complete this but the admission of loyal members from the Southern States. Every day's delay increased our domestic and foreign embarrassment. It seemed not only proper, but expedient, therefore, that all parties should unite in remon-

strance against the Congressional policy. Secretary Welles was not less strong and explicit in the position taken by him in favor of the Convention. Attorney General Speed expressed far different views. Many of the principles set forth in the call for the Convention he deemed unobjectionable. But the formation of this new party would dissolve the old Union party, which had, in face of the prophecies of half the New and all the Old world, saved the government from demoralization and utter ruin. The scheme of this new party was, in his view, a distraction from the real and all-absorbing question of the moment—the acceptance or rejection by the people of the Congressional amendment. Being himself decidedly in favor of the amendment, he could not identify himself with an organization which ignored its importance and smothered its discussion. Postmaster General Dennison replied on July 11th by tendering his resignation, which was accepted by the President, who appointed A. W. Randall, of Wisconsin, to act as his successor. The causes given by Dennison for his resignation were his difference of opinion with the President in regard to the proposed amendment and the movement for the Philadelphia Convention. The attorney general soon after resigned, and was succeeded by Henry Stansberry, of Ohio. The Secretary of the Interior, Mr. Harlan, of Iowa, having been elected senator, resigned, and Orville H. Browning, of Ohio, was appointed in his stead.

And here let us pause for a moment to look at the various phases of the political situation which presented itself in the summer of 1866, just before the meeting of the Philadelphia Convention. In this connection the mistakes of the President or of Congress are not to be considered; for, even if we admit that Congress had erred as well as the President, these errors belonged to the past, and could not be reversed. It was evident that the conflict between the two departments of the government now admitted of no reconciliation. We are not now to consider how previously reconciliation could have been effected; it was not now possible. We must also concede both to the President and to Congress the constitutional right to act precisely as they had acted. Whatever want of tact there may have been on the part of either is not here a subject for consideration. Neither party to the conflict had been in the slightest degree guilty of any usurpation. We are to forget all extraneous and incidental considerations, and confine ourselves to the precise issue presented to the people. For the moment we are to banish both the President and Congress from a place in our thoughts, and weigh the two policies between which the people must decide. We must not forget, however, that the people had not been all this while a silent party to the contract. The President believed that his policy was supported by the people, and Congress had been restrained from the adoption of more radical measures by the fear that these would not obtain the popular assent. Both the President and Congress appealed to the people. And the issue presented was a very plain one: it was simply a question whether it should ignore the President and accept the Congressional amendment as a preliminary to the admission of Southern representatives, or ignore Congress and decide in favor of immediate representation on the President's plan.

It was a plain question. Either the policy of the President or that of Congress must receive the popular sanction. But, although the line drawn between the two policies was so clearly defined, the motives influencing the popular judgment were various and complex. The question resolved itself into one of expediency. Which plan, under the circumstances, ought to be adopted? Thus all mere theories were swept out of the arena of discussion. The issue was intensely practical, and pressed instantly for decision—neither time nor room was left for speculation. There were dangers to be avoided, there were benefits to be maintained and secured. Which plan most surely averted danger? Which secured the most lasting good?

The plea put in for each policy was strong, and urgently demanded careful and calm consideration. The advocates of the executive plan for restoration claimed that the war had a distinct purpose which had already been accomplished—the extinction of armed rebellion. Slavery also had been extinguished with rebellion. Thus the root and seed of all our strife had been removed. But, although the slave had departed, the negro remained. In many of the states the negro population at the close of the war exceeded the white. The two races would naturally abide together, for each needed the other. The white race needed the black for labor, not because it would not itself labor, but because of the extraordinary resources of the southern section of the country, which demanded for their full development not only all the white and black inhabitants already occupying it, but thousands upon thousands more who would come from the Northern States as immigrants, and from all the nations of Europe. The black race stood in no less need of the white, because the latter had intelligence in a greater degree, was used to the exercise of political power, and must therefore, of necessity, be the regulative and controlling race. Not regulative in the despotic sense, in which it had been hitherto as the task-masters over the black, but, because of its greater civilization, it was more competent to carry out the ends of civilization. To change this relation, to give the black race all the political mastery to which it might be entitled merely on the basis of numbers, would be to fight Nature, who gives sovereignty not to numbers, but to developed capacity. Such a revolution against Nature would necessarily put back the civilization of one half of the nation by a foolish surrender of power to ignorance or incompetency. We must trust to Nature, whose movements, if they are large in their cycles and slow of accomplishment, are nevertheless efficient. Before the war, Nature had already decreed the death of slavery, and the war itself had grown out of an attempt on the part of slaveholders to defy Nature; for they saw that slavery, restricted as it must be by the nation under the pressure of moral opinion, would surely die. They said, therefore, we will resist the pressure; we will make a new nation, with slavery for the corner-stone; there shall be no restriction, and this peculiar institution shall live forever! They defied Nature, and were defeated; and the very institution which by revolution they hoped to save, was by revolution destroyed. By this revolution the society of the South was reduced back to first principles—to a new beginning. A new era was opened to labor, now emancipated. A period of transition was now commenced. Might we not trust to Nature, and to the new influences in operation, and to time for results? Labor, free, must have a destiny of its own. Intelligence must follow, and the development of political capacity in the masses. The revolution had been radical. All things were new, and must grow out of a new beginning. Might we not trust to this new growth? Would we not best help it on by an era of mutual trust and good feeling? Might not the North say to the South, "Work out your destiny for yourself under these new and better influences, and we will await with patience the result, and will not interfere?" Would not legislative interference, defying Nature, defeat its own purpose? Was it necessary to add to the changes produced by the war any change in the organic law beyond the declaration of the death of slavery? That dead, would not the new life of the South, under the new circumstances, develop satisfactory results?

Thus questioned and reasoned those, who, without partisan motives and from simple patriotism, supported the President's policy. Among the best representatives of this class was Rev. Henry Ward Beecher.

But to all this reasoning Congress, and the supporters of Congress, had a reply. It is true, said they, that we are to begin anew, and that we must largely trust to the working of Nature and the influences of time. But the South does not begin anew as a separate section, but as a part of a great nation. The responsibilities of the moment do not rest upon a part alone, but upon the whole. The whole nation is beginning anew, and not one section alone. The South does not stand by itself in this new era. The national Legislature, acting under the organic law—the Constitution—is the regulative power. The revolution which has taken place must be recognized here, in this Legislature, in this organic law. It is true that Nature is large in movement, slow, and in the end efficient. But Nature is sometimes diseased, abnormal in its action, and may be helped by remedies. The diseases of the past, the result of slavery, still cling to the ruling, regulative race in the South, and will injuriously affect not only Southern development, but the national growth. Labor in the South is emancipated, but, in those who control labor there, the oppressive spirit developed by slavery still remains. With this oppressive class, whose political power in the national councils is rather increased than diminished by the death of slavery, there is a party in the North at this moment ready to strike hands and unite in a treaty, offensive and defensive, for the control of the country. It is within our power, and is therefore a duty for which we are responsible, to avert this possible evil. So far as possible, we must start aright and upon correct principles on this new era upon which the nation is entering. We can not act arbitrarily, we can not exercise the power of despotism, but we can submit to the people such changes in the organic law of the nation as, if the people will ratify them, will establish the new nation upon a secure basis. We therefore submit to the people an amendment to the Constitution which will give to all citizens equal rights and equal representation, secure the repudiation of the rebel debt and the adoption of the national debt in good faith, and disable leading traitors for such time as we may deem expedient.

Such were the pleas in behalf of the Presidential and Congressional policies. And the appeal was to the people.

On the 14th of August the National Union Convention assembled at Philadelphia. Every state and Territory was represented excepting Arizona, Montana, and Utah. General John A. Dix was chosen temporary Chairman, and Senator Doolittle President. At the opening of the Convention quite a sensation was created by the entrance of the delegates from Massachusetts and South Carolina arm in arm. The Convention did its work rapidly. On the third day an address was read by Henry J. Raymond, and approved by the Convention, and resolutions were adopted, declaring that the rights, dignity, and authority of the states were perfect and unimpaired; that Congress had no right to deny representation to any state; that the right to regulate the elective franchise was reserved to the states; that amendments to the Constitution might be made in the usual way, and that in rectifying the same all the states of the Union had an equal and indefeasible right to a voice and a vote thereon; that slavery was abolished, and the enfranchised slaves should receive equal protection with other citizens in every right of person or property; that any debt incurred in the execution of rebellion was invalid, and that the national debt was sacred and inviolable; and that President Johnson was a chief magistrate worthy of the nation, and equal to the great crisis upon which his lot was cast.[1]

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[1] "The National Union Convention now assembled in the city of Philadelphia, composed of delegates from every state and territory in the Union, admonished by the solemn lessons which, for the last five years, it has pleased the Supreme Ruler of the Universe to give to the American people; profoundly grateful for the return of peace; desirous, as are a large majority of their countrymen, in all sincerity, to forget and forgive the past; revering the Constitution as it comes to us from our ancestors; regarding the Union in its restoration as more sacred than ever; looking with deep anxiety into the future, as of instant and continuing trials, hereby issues and proclaims the following declaration of principles and purposes, on which they have, with perfect unanimity, agreed:

"1. We hail with gratitude to Almighty God the end of the war and the return of peace to our afflicted and beloved land.

"2. The war just closed has maintained the authority of the Constitution, with all the powers which it confers, and all the restrictions which it imposes upon the general government, unabridged and unaltered, and it has preserved the Union, with the equal rights, dignity, and authority of the states perfect and unimpaired.

"3. Representation in the Congress of the United States and in the electoral college is a right recognized by the Constitution as abiding in every state, and as a duty imposed upon the people, fundamental in its nature, and essential to the existence of our republican institutions, and neither

A committee was appointed to present to the President a copy of the proceedings of the Convention. Senator Reverdy Johnson acted as the representative of this committee. The President, in his reply, spoke of Congress as a body which was preventing the restoration of peace and harmony—a body which, pretending to be a Congress of the United States, but which was, in fact, a Congress of only part of the states—a body "hanging upon the verge of the government."

Other Conventions also were held. The Southern Loyalists' Convention met at Philadelphia on the 1st of September, and adopted resolutions in favor of the Congressional policy. On the 17th of September, the Convention of soldiers and sailors assembled at Cleveland, Ohio, and adopted resolutions of a similar character with those adopted by the Philadelphia Convention of August 14th. Of this Convention Major General Gordon Granger was President. On the 25th of September, a Convention of soldiers and sailors sustaining the action of Congress assembled at Pittsburg, Pennsylvania, and Major General J. D. Cox was elected President. A series of resolutions was reported by Major General B. F. Butler, of which the two following were the most characteristic:

"*Resolved*, That the President, as an executive officer, has no right to a policy as against the legislative department of the government. That his attempt to fasten his scheme of reconstruction upon the country is as dangerous as it is unwise; his acts in sustaining it have retarded the restoration of peace and unity; they have converted conquered rebels into impudent claimants to rights which they have desecrated. If consummated, it would render the sacrifices of the nation useless, the loss of the lives of our buried comrades vain, and the war in which we have so gloriously triumphed what his present friends at Chicago, in 1864, declared it to be, a failure.

"*Resolved*, That the right of the conqueror to legislate for the conquered has been recognized by the public law of all civilized nations. By the operation of that law for the conservation of the good of the whole country, Congress had the undoubted right to establish measures for the conduct of the revolted states, and to pass all acts of legislation that are necessary for the complete restoration of the Union."

In the mean time, an event had occurred which had created the most intense excitement throughout the country. In 1864, the Louisiana State Convention had made a new Constitution, and submitted it to the people of that state. This Constitution had been ratified. Among its provisions was one for its amendment, requiring that the proposition for amendment should proceed from the state Legislature. Two years had passed, and the Convention was dissatisfied with its own work, and had grown rabid for negro suffrage. It was no longer a legitimate organization after the ratification of its Constitution. It attempted, however, to revive itself; it obtained the support of Governor Wells, who appointed an election to secure delegates from the parishes not represented in the original Convention, and the 30th of July was appointed for the revival of the Convention. The plan proposed by this Convention involved the overturning of its own Constitution, which had already been sanctioned by the people. It was a revolutionary body. It is not wonderful that its scheme occasioned excitement. As if for the purpose of revolution and tumult, this Convention held a preliminary meeting in New Orleans, at which speeches were made appealing to the negroes to come forth in force for the protection of the Convention. The mayor of New Orleans at this time was John T. Monroe. His antecedents were not of a favorable character. In company with Lieutenant Governor Voorhees, he had waited upon General Absalom Baird, who, in the absence of Major General Sheridan, commanded the United States military force at New Orleans, to ascertain whether, if the members of the Convention were arrested, the military would interfere. General Baird's answer was, that the sheriff, attempting such an arrest, would himself be arrested; that the Convention, meeting peaceably, could not be interfered with by the officers of the law. But the Convention could not be said to have met peaceably, having directly provoked tumult. A telegram was sent to the President inquiring whether the process of the court to arrest the members could be thwarted by the military. The President replied that the military would sustain, and not interfere with the proceedings of the courts. The Convention met on the 30th, but there was not a quorum. Plainly either the majority of the members were timid, or were satisfied of the irregularity of the Convention. The negroes whom Dr. Dostie, a member of that body, had called forth in prospect of a conflict, were ready at the time appointed. The citizens of New Orleans were, on the other hand, also ready. The collision was inevitable. Just how the riot began is uncertain. But there is no question of the fact that both the negroes and the citizens were gathered together for no other purposes than those of strife. The result was disgraceful to the negroes, to the citizens, to the Convention, and to the New Orleans police, whose brutality can scarcely be distinguished from murder.[1]

This occurrence was made use of by both parties as political capital. The supporters of Congress pointed to it as an indication of the disloyalty of the Southern people, and the Democrats, on the other hand, held up the revolutionary Convention as an example of radical violence. The prevailing popular impression acquitted the negroes of any desire to disturb the peace, and threw the blame partly upon the Convention, which, by the incendiary speech of at least one of its members, had incited tumult; but chiefly upon the white citizens of New Orleans, who had been organized for a riot, and who had met at a preconcerted signal for the purpose of violently dispersing the Convention. The mayor, John T. Monroe, was supposed to be on the side of the rioters, and was held by General Sheridan to be largely responsible for their action. President Johnson suffered much loss in the people's estimation from his support of Mayor Monroe hitherto, but he can not be held consciously responsible for the violence of July 30th.

On the 28th of August President Johnson left Washington for Chicago, to be present at the laying of the corner-stone of a monument to be erected to the memory of Stephen A. Douglas. He was accompanied by Secretaries Seward and Welles, by General Grant and Admiral Farragut. In all the cities through which the President passed, he was accorded that courteous welcome which the people are always ready to extend to their chief magistrate. His speeches on the route were full of the most bitter denunciation of Congress, which he described as a body hanging upon the verge of the government. In some cases he descended to bandy words with a crowd, and to answer ill-tempered jeers at himself by an echo of their bad temper. His utter lack of tact disgusted even his friends. He too clearly proved that, whatever might be the merits of his policy, he could not be safely trusted as leader with any policy. As Henry Ward Beecher soon afterward aptly said, "The greatest obstacle to the success of Andrew Johnson's policy is Andrew Johnson."

The autumn elections of 1866 were now at hand. The President, sure of Democratic support, desired also to retain a good portion of the Republican vote. His especial favorites—those who received the largest share of his patronage, were Republicans of the Philadelphia Convention school. But the defection from the Republican ranks caused by the Philadelphia Convention movement was not large. The old Union party still maintained its ranks unbroken, and refused to be distracted from the main issue—the Congressional amendment to the Constitution. The national executive committee, which had been appointed in 1864, held its regular meeting at Philadelphia. Governor Marcus L. Wood, of New Jersey, was elected chairman. The places on that committee of Henry J. Raymond, and others who had participated in the Philadelphia Convention, were filled, and an address was issued to the people calling upon them to support the Congressional plan of restoration.

The late riots in New Orleans, the President's tour to the tomb of Douglas, the attempt of the President to influence the prospective elections by the distribution of patronage to his special adherents, and his evident determination to use Democrats, pardoned rebels, and every possible available element to carry out his policy, tended to consolidate the Republican party in opposition. Another circumstance which conduced to this result was the fact that the nominees of the so-called Conservatives were in most cases men in whom the Union party of the country had no confidence.

The popular vote was decidedly in favor of the Congressional policy. In Maine, Chamberlain, the Republican candidate, was elected over Pillsbury

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Congress nor the general government has any authority or power to deny this right to any state, or to withhold its enjoyment under the Constitution from the people thereof.

"4. We call upon the people of the United States to elect to Congress as members thereof none but men who admit this fundamental right of representation, and who will receive to seats therein loyal representatives from every state in allegiance to the United States, subject to the constitutional right of each house to judge of the elections, returns, and qualification of its own members.

"5. The Constitution of the United States, and the laws made in pursuance thereof, are the supreme law of the land, any thing in the Constitution or laws of any state to the contrary notwithstanding. All the powers not conferred by the Constitution upon the general government, nor prohibited by it to the states, are reserved to the states, or to the people thereof; and among the rights thus reserved to the states is the right to prescribe qualifications for the elective franchise therein, with which right Congress can not interfere. No state or combination of states has the right to withdraw from the Union, or to exclude, through their action in Congress or otherwise, any other state or states from the Union. The Union of these states is perpetual.

"6. Such amendments to the Constitution of the United States may be made by the people thereof as they may deem expedient, but only in the mode pointed out by its provisions; and in proposing such amendments, whether by Congress or by a Convention, and in ratifying the same, all the states of the Union have an equal and indefeasible right to a voice and a vote thereon.

"7. Slavery is abolished and forever prohibited, and there is neither desire nor purpose on the part of the Southern States that it should ever be re-established upon the soil, or within the jurisdiction of the United States; and the enfranchised slaves in all the states of the Union should receive, in common with all their inhabitants, equal protection in every right of person and property.

"8. While we regard as utterly invalid, and never to be assumed or made of binding force, any obligations incurred or undertaken in making war against the United States, we hold the debt of the nation to be sacred and inviolable; and we proclaim our purpose in discharging this, as in performing all other national obligations, to maintain unimpaired and unimpeached the honor and faith of the republic.

"9. It is the duty of the national government to recognize the services of the Federal soldiers and sailors in the contest just closed, by meeting promptly and fully all their just and rightful claims for the services they have rendered the nation, and by extending to those of them who have survived, and to the widows and orphans of those who have fallen, the most generous and considerate care.

"10. In Andrew Johnson, President of the United States, who, in his great office, has proved steadfast in his devotion to the Constitution, the laws, and interests of his country, unmoved by persecution and undeserved reproach, having faith unassailable in the people and in the principles of free government, we recognize a chief magistrate worthy of the nation, and equal to the great crisis upon which his lot is cast; and we tender to him, in the discharge of his high and responsible duties, our profound respect, and assurance of our cordial and sincere support."

[1] The views of General Sheridan, in military command of the Department, are expressed in the following dispatches:

"New Orleans, August 1, 1866.

"U. S. GRANT, General:

"You are doubtless aware of the serious riot which occurred in this city on the 30th. A political body, styling itself the Convention of 1864, met on the 30th, for, as it is alleged, the purpose of remodeling the present Constitution of the state. The leaders were political agitators and revolutionary men, and the action of the Convention was liable to produce breaches of the public peace. I had made up my mind to arrest the head men if the proceedings of the Convention were calculated to disturb the tranquillity of the Department, but I had no cause for action until they committed the overt act. In the mean time official duty called me to Texas, and the mayor of the city, during my absence, suppressed the Convention by the use of the police force, and, in doing so, attacked the members of the Convention and a party of two hundred negroes with fire-arms, clubs, and knives, in a manner so unnecessary and atrocious as to compel me to say that it was murder. About forty whites and blacks were thus killed, and about one hundred and sixty wounded. Every thing is now quiet, but I deem it best to maintain a military supremacy in the city for a few days, until the affair is fully investigated. I believe the sentiment of the general community is great regret at this unnecessary cruelty, and that the police could have made any arrrest they saw fit without sacrificing lives. P. H. SHERIDAN, Major General Commanding."

"New Orleans, Louisiana, August 2, 1866.

"U. S. GRANT, General, Washington, D. C.:

"The more information I obtain of the affair of the 30th in this city, the more revolting it becomes. It was no riot; it was an absolute massacre by the police, which was not excelled in murderous cruelty by that of Fort Pillow. It was a murder which the mayor and police of the city perpetrated without the shadow of a necessity. Furthermore, I believe it was premeditated, and every indication points to this. I recommend the removing of this bad man. I believe it would be hailed with the sincerest gratification by two thirds of the population of the city. There has been a feeling of insecurity on the part of the people here on account of this man, which is now so much increased that the safety of life and property does not rest with the civil authorities, but with the military. P. H. SHERIDAN, Major General Commanding."

by twenty-seven thousand votes, and every Republican delegate to Congress was chosen by a considerable majority. In New Hampshire, the Republican majority for Governor Smyth over Sinclair was nearly 5000. In Connecticut, the Republican candidate, General Joseph R. Hawley, was elected over English by a few hundred votes. General Burnside was chosen Governor of Rhode Island by a majority of over 5000. Alexander H. Bullock, in Massachusetts, received a majority over Sweetser of over 65,000. Among the members elected to the state Legislature were two colored men. In Vermont, Paul Dillingham received a majority of nearly 23,000 over Davenport, the Democratic candidate for governor. In New Jersey, out of five members elected to the Fortieth Congress, three were Republican. In New York, Governor Fenton was elected over Hoffman, the Democratic candidate, by a majority of nearly 14,000. In Delaware, Saulsbury, the Democratic candidate for governor, was elected by some 1200 votes. In Kentucky, the election was not for the principal officers, but the Democratic majority was about 38,000. In California, a judge of the Supreme Court was elected by the Republican party by a majority of 7000. In Oregon, the Republican majority for Woods as governor was 327. In Ohio, the Republican majority for secretary of state was nearly 43,000. In Indiana also a Republican secretary was elected by 14,000 majority. Kansas gave a Republican majority for Crawford, as governor, of over 11,000. In Iowa, the Republican majority for secretary of state was over 35,000. In Pennsylvania, Major General Geary, the Republican candidate, was elected governor over Heister Clymer by 17,000 majority. In Michigan, Crapo, Republican candidate for governor, was elected over Williams by a majority of 29,000. Minnesota elected Republican representatives to Congress by about 10,000 majority. In Illinois, General John A. Logan was elected Congressman at large over Dickey by nearly 56,000. Wisconsin gave a Republican majority of 24,000 for Congressmen.

From this estimate, it is clear that the people repudiated the President's policy, and by overwhelming majorities in nearly all the states supported Congress. This was not more decisively shown in the election of state officers than in the vote for members of the Fortieth Congress.

From this point a new stage in the reconstruction movement commenced. The antagonism of the President was still continued against Congress, notwithstanding the popular decision in favor of the Congressional amendment. The Southern States still refused to accept the conditions submitted by Congress and supported by the loyal people. Thus there was a dead-lock in the process of restoration. There were then two methods of procedure. Either Congress and the whole country could wait until the Southern States should accept the amendment, or they could take the whole affair into their own hands, and decide arbitrarily that the movement should go on, and upon what conditions. Congress adopted the latter method. Just before the close of its second session, the Thirty-ninth Congress passed an act known as the Military Bill. This act declared that no legal state governments existed in the late rebel states (excluding Tennessee), and that in these states there was no adequate protection for life or property. These states were therefore distributed into military districts, subject to the military authority of the United States, as follows:

I. Virginia.
II. North Carolina and South Carolina.
III. Georgia, Alabama, and Florida.
IV. Mississippi and Arkansas.
V. Louisiana and Texas.

The President was to appoint as a commander of each district an officer of the army not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority.

The duties of these commanders were—to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals. To this end they might allow local civil tribunals to take jurisdiction of and try offenders, or, at their discretion, might organize military commissions for the trial of offenders, and this exercise of military authority should exclude interference on the part of the state government. No sentence of death should be carried into effect without the approval of the President.

The fifth section of this act provided that when the people of any of these states should have formed a Constitution in conformity with the Constitution of the United States in all respects, and which should be framed by delegates elected by the male citizens of said state 21 years old and upward, "of whatever race, color, or previous condition, resident in the state for one year, excepting those disfranchised for participation in rebellion," and when such Constitution should provide for universal suffrage, with the exception of those disfranchised for participation in rebellion, and be ratified by the people and approved by Congress, and the Congressional amendment should have been adopted, the said state should be admitted to representation in Congress.

The sixth section of the bill provided that until this admission of representatives to Congress the civil government of each state should be considered as provisional only.

The President vetoed this bill, and it was passed over his veto by both houses March 2, 1867. He then, in obedience to the act thus passed against his remonstrance, appointed Brevet Major General John M. Schofield, commander of the First District; Major General Daniel E. Sickles, commander of the Second; Major General Pope, commander of the Third; Major General E. O. C. Ord, commander of the Fourth; and Major General Philip H. Sheridan, commander of the Fifth.

The Fortieth Congress assembled on the 4th of March, 1867, immediately succeeding and receiving the mantle of the Thirty-ninth. Soon after its assembling it passed an act supplementary to the Military Bill adopted at the previous session. This supplementary act provided in detail for the registration of voters.[1] It was vetoed by the President, and then passed over the veto by each house.

The supplementary act was vetoed as the original act had been, but was on the 23d of March passed, notwithstanding the President's objections.[2]

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[1] *An Act supplementary to an Act entitled "An Act to Provide for the more efficient Government of the Rebel States," passed March 2d, 1867, and to facilitate Restoration.*

"*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That before the first day of September, 1867, the commanding general in each district defined by an act entitled 'An Act to Provide for the more efficient Government of the Rebel States,' passed March 2d, 1867, shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upward, resident in each county or parish in the state or states included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation: 'I, ———, do solemnly swear (or affirm), in the presence of Almighty God, that I am a citizen of the State of ———; that I have resided in said state for — months next preceding this day, and now reside in the county of ———, or the parish of ———, in said state (as the case may be); that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any state or of the United States; that I have never been a member of any state Legislature, nor held any executive or judicial office in any state, and afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, 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, and afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do: so help me God;' which oath or affirmation may be administered by any registering officer.

"SEC. 2. *And be it further enacted*, That after the completion of the registration hereby provided for in any state, at such time and places therein as the commanding general shall appoint and direct, of which at least thirty days' public notice shall be given, an election shall be held of delegates to a Convention for the purpose of establishing a Constitution and civil government for such state loyal to the Union, said Convention in each state, except Virginia, to consist of the same number of members as the most numerous branch of the state Legislature of such state in the year 1860, to be apportioned among the several districts, counties, or parishes of such state by the commanding general, giving each representation in the ratio of voters registered as aforesaid as nearly as may be. The Convention in Virginia shall consist of the same number of members as represented the territory now constituting Virginia in the most numerous branch of the Legislature of said state in the year 1860, to be apportioned as aforesaid.

"SEC. 3. *And be it further enacted*, That at said election the registered voters of each state shall vote for or against a Convention to form a Constitution therefor under this act. Those voting in favor of such a Convention shall have written or printed on the ballots by which they vote for delegates as aforesaid the words 'For a Convention,' and those voting against such a Convention shall have written or printed on such ballot the words 'Against a Convention.' The persons appointed to superintend said election, and to make return of the votes given thereat, as herein provided, shall count and make return of the votes given for and against a Convention; and the commanding general to whom the same shall have been returned shall ascertain and declare the total vote in each state for and against a Convention. If a majority of the votes given on that question shall be for a Convention, then such Convention shall be held as hereinafter provided; but if a majority of said votes shall be against a Convention, then no such Convention shall be held under this act: *Provided*, That such Convention shall not be held unless a majority of all such registered voters shall have voted on the question of holding such Convention.

"SEC. 4. *And be it further enacted*, That the commanding general of each district shall appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons, to make and complete the registration, superintend the election, and make return to him of the votes, list of voters, and of the persons elected as delegates by a plurality of the votes cast at said election; and upon receiving said returns he shall open the same, ascertain the persons elected as delegates, according to the returns of the officers who conducted said election, and make proclamation thereof; and if a majority of the votes given on that question shall be for a Convention, the commanding general, within sixty days from the date of election, shall notify the delegates to assemble in Convention, at a time and place to be mentioned in the notification, and said Convention, when organized, shall proceed to frame a Constitution and civil government according to the provisions of this act, and the act to which it is supplementary; and when the same shall have been so framed, said Constitution shall be submitted by the Convention for ratification to the persons registered under the provisions of this act at an election to be conducted by the officers or persons appointed or to be appointed by the commanding general, as hereinbefore provided, and to be held after the expiration of thirty days from the date of notice thereof, to be given by said Convention; and the returns thereof shall be made to the commanding general of the district.

"SEC. 5. *And be it further enacted*, That if, according to said returns, the Constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, at least one half of all the registered voters voting upon the question of such ratification, the president of the Convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if it shall moreover appear to Congress that the election was one at which all the registered and qualified electors in the state had an opportunity to vote freely, and without restraint, fear, or the influence of fraud, and if the Congress shall be satisfied that such Constitution meets the approval of a majority of all the qualified electors in the state, and if the said Constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said Constitution shall be approved by Congress, the state shall be declared entitled to representation, and senators and representatives shall be admitted therefrom as therein provided.

"SEC. 6. *And be it further enacted*, That all elections in the states mentioned in the said 'Act to Provide for the more efficient Government of the Rebel States' shall, during the operation of said act, be by ballot; and all officers making the said registration of voters and conducting said elections shall, before entering upon the discharge of their duties, take and subscribe the oath prescribed by the act approved July 2d, 1862, entitled 'An Act to prescribe an Oath of Office:' *Provided*, That if any person shall knowingly and falsely take and subscribe any oath in this act prescribed, such person so offending and being thereof duly convicted shall be subject to the pains, penalties, and disabilities which by law are provided for the punishment of the crime of willful and corrupt perjury.

"SEC. 7. *And be it further enacted*, That all expenses incurred by the several commanding generals, or by virtue of any orders issued, or appointments made by them, under or by virtue of this act, shall be paid out of any moneys in the treasury not otherwise appropriated.

"SEC. 8. *And be it further enacted*, That the Convention for each state shall prescribe the fees, salary, and compensation to be paid to all delegates and other officers and agents herein authorized or necessary to carry into effect the purposes of this act not herein otherwise provided for, and shall provide for the levy and collection of such taxes on the property in such state as may be necessary to pay the same.

"SEC. 9. *And be it further enacted*, That the word 'article,' in the sixth section of the act to which this is supplementary, shall be construed to mean 'section.'"

[2] To the original bill President Johnson objected on the following grounds:

1. That "the mass of the Southern people, while they entertain diverse opinions on questions of federal policy, are completely united in the effort to reorganize their society on the basis of peace, and to restore their mutual prosperity as rapidly and completely as the circumstances of the case will permit."

2. The military rule established by the bill is "to be used, not for any purpose of order or for the prevention of crime, but solely as a means of coercing the people into the adoption of principles and measures to which it is known that they are opposed, and upon which they have an undeniable right to exercise their own judgment." Thus it was in "palpable conflict with the plainest provisions of the Constitution."

3. The power given by the bill "is that of an absolute monarch, his mere will taking the place of all law; it places at his free disposal all the lands and goods in his district; and he may distribute them to whom he pleases; he may make a criminal code of his own, and he may make it as bloody as any recorded in history, or he may reserve the privilege of acting upon the impulse of his private humors in each case that occurs. . . . . It is plain that the authority here given to the military officer amounts to absolute despotism. But, to make it still more unendurable, the bill provides that it may be delegated to as many subordinates as he chooses to appoint; for it declares that he shall 'punish or cause to be punished.' Such a power has not been wielded in England for more than 500 years. . . . . It reduces the whole population of the ten states—all per-

The President's objections to both the original and the supplementary acts were theoretically just; but, for all that, they did not touch the question as it offered itself to Congress. He could see in the establishment of military power and the suffrage given to the blacks only three things: a design on the part of the Republican party to perpetuate its own power; an absolute despotism; and a violation of the Constitution. There may have been, and probably were, a few members in both houses of Congress who were partisans in the sense that they preferred the success of their party to the interests of their country; there may have been those who lightly regarded constitutional liberty and constitutional law; but this was not the light in which Congress, as a body, looked upon the situation which confronted it. An appeal had been made to the people of the Northern States, and the result had been a Congressional victory. An opportunity had already been afforded to the Southern States to regain their representation in Congress by doing exactly what Tennessee had done—*i. e.*, by accepting a Constitutional amendment, which involved no imposition upon them of negro suffrage, nor indeed any conditions not really demanded by the situation at the close of the war. But they had rejected the advances of Congress, and stood defiantly upon "their rights" as interpreted for them by Andrew Johnson. The work of restoration could not, then, proceed upon the plan originally proposed by Congress. But the work must go on upon some plan. Either the people must surrender to the President against their own good sense, by reverting to his plan, now that their own had failed, or they must adopt still another. And what other was possible? Only one; and that was to appeal from the whites of the South to the whole people, white and black. In order to do this, it was necessary to give the negroes of the South the privilege of voting for Conventions in the several states. This plan evidently could not be carried into execution except under the supervision of military commanders. We are not, however, in vindicating the necessity of the Military Bill, defending every feature of that bill. Undoubtedly it would have been better if Congress had omitted that provision by which so large a portion of Southern whites were disfranchised. This provision was not essential in order to secure the objects sought.

It must indeed be admitted that the Military Bill was unconstitutional. But so in a greater or less degree had been every measure in the entire process of reconstruction, whether adopted by the President or by Congress. Lincoln's Emancipation Proclamation was unconstitutional, and was only defensible on the plea of military necessity. But the necessities of war are no more binding than those of peace. The object of the war was to conquer peace; and after the war there still remained the no less difficult work of securing the peace which had been conquered. Was the security of the conquest any less important than the conquest itself? Lincoln issued his proclamation after long hesitation and with evident reluctance. But he stood face to face with a great necessity, and was compelled to act. The deliberations of the Thirty-ninth Congress in 1866 show that that body was equally reluctant to interfere directly with the right of states to regulate their own system of franchise. But the necessity came, and came as the result of the attitude assumed by the Southern people. Congress yielded, as Mr. Lincoln had done.

At first the bill did not strike the South unfavorably. This is probably to be accounted for by the fact that the political leaders of the South anticipated that the votes of the freedmen could easily be regulated by their former masters. Every attempt was made to influence the freedmen in this direction. Thus General Wade Hampton said to them,[1] "Give your friends at the South a fair trial; when they fail you will be time enough to go abroad for sympathy; it is for your interest to build up the South, for as the country prospers you will prosper." Similar arguments were used in every Southern state. Disfranchised white men addressed assemblages mainly composed of enfranchised blacks. But they did not hold the field alone, else their success might have been assured. Several Northern men traversed the South, and urged the freedmen to act with the Republican party. Prominent among these were Senator Wilson, of Massachusetts, and Mr. Kelley, representative from Pennsylvania. Their speeches were moderate in tone, but very effective. White men attended these meetings, apparently willing that both parties should have a fair chance in this contest for the negro vote. There was a slight disturbance in Mobile, in which Mr. Kelley was placed in some peril; but in New Orleans, at a meeting addressed by Senator Wilson, the Confederate General Longstreet was one of the Vice-Presidents. Whatever may have been the hopes entertained by the Southern whites as to the possibility of securing the support by the freedmen of what was termed the Conservative policy, they were not realized. So soon as it became evident that the negroes would support Congress, there began to be developed a bitter opposition to the Military Bill, both in the South and among those in the North who supported Mr. Johnson. Very many, also, who were opposed to Johnson's policy, thought that the disfranchisement of so many whites in the South, and the evident purpose shown by those who controlled registration to give political supremacy to the blacks, were not only unnecessary, but also injurious to the Republican party.

Although President Johnson had protested so strongly against the establishment of military governments, yet after the passage of the Congressional acts he proceeded promptly to their execution. Even in the appointment of the military commanders he seems to have sought just those officers in the army which would be most likely to meet the approbation of Congress. In the case of General Sheridan particularly, the President feared that the conduct of that officer might be needlessly arbitrary. Still he yielded to the popular sentiment in favor of the general, and gave him the most difficult of the five military districts. The President sought, however, in every possible way, to regulate the operations of the military government in such a manner as to relieve those features which were most obnoxious. But the legislation of Congress left him a very limited sphere of action. He could not prevent the subordination of the civil governments of the South to the military commanders; the provisions of the original Military Bill were explicit on that point, and could not be avoided. On the same day that this bill was finally passed, the Tenure of Office Bill was also passed over the President's veto. The provisions of this bill, by limiting his authority in making official appointments, almost entirely deprived him of the power to check any proceedings, however arbitrary, on the part of the military commanders; it took from him the power of removing even the members of his cabinet except by and with the consent of the Senate. Indeed, more executive power was delegated to each of the military commanders than was left to the executive head of the government.

Thus cramped and fettered by Congress, the President had recourse to Mr. Stansberry, his attorney general. Was there no way in which the executive might lay his hand upon the registration of voters in the South, and prevent the sweeping disfranchisement contemplated by Congress? Stansberry thought there was. Surely the legal opinion of the highest legal officer in the nation ought to avail somewhat. So the attorney general gave an opinion—and a very ingenious and elaborate opinion it was, we must admit.[1] The most important point in this opinion is the statement that the

sons, of every color, sex, and condition, and every stranger within their limits—to the most abject and degrading slavery. No master ever had a control over his slaves so absolute as this bill gives to the military officers over both white and colored persons."

4. The bill is unconstitutional in conferring the right of suffrage upon the freedmen. "The negroes have not asked for the privilege of voting; the vast majority of them have no idea what it means. This bill not only thrusts it into their hands, but compels them, as well as the whites, to use it in a particular way. If they do not form a Constitution with prescribed articles in it, and afterward elect a Legislature which will act upon certain measures in a prescribed way, neither blacks nor whites can be relieved from the slavery which the bill imposes upon them. Without pausing here to consider the policy or impolicy of Africanizing the southern part of our territory, I would simply ask the attention of Congress to that manifest, well-known, and universally-acknowledged rule of constitutional law which declares that the federal government has no jurisdiction, authority, or power to regulate such subjects for any state. To force the right of suffrage out of the hands of the white people and into the hands of the negroes is an arbitrary violation of this principle."

5. "We should remember that all men are entitled to at least a hearing in the councils which decide upon the destiny of themselves and their children. At present ten states are denied representation; and when the Fortieth Congress assembles on the 4th day of the present month, sixteen states will be without a voice in the House of Representatives. This grave fact, with the important question before us, should induce us to pause in a course of legislation which, looking solely to the attainment of political ends, fails to consider the rights which it transgresses, the law which it violates, or the institutions which it imperils."

The veto to the supplementary act reiterates the objections to the original bill, and adds some others. "By the oath required at registration," says the President, "every elector must decide for himself, under peril of military punishment if he makes a mistake, whether he has been disfranchised for participation in rebellion. . . . . Almost every man—the negro as well as the white—above 21 years of age, who was resident in the ten states during the rebellion, voluntarily or involuntarily, at some time and in some way, did participate in resistance to the lawful authority of the general government." Besides, urges the President, as the people themselves have no voice in conducting the registration and the subsequent election, the Conventions elected can not be considered as representing the citizens of those states.

[1] At Columbia, South Carolina, March 18.

[1] The principal points are as follows: 1. All who are registered, and none others, have the right to vote. 2. No one who is not a citizen of the United States, and of the special state, can properly take the oath; but if an alien not naturalized chooses, he can take it, and must be registered; but "he takes it at his peril, and is liable to prosecution for perjury." 3. The person who applies for registry must be of the age of twenty-one years when he applies; but the requirement for a residence of one year applies to the time of voting, not of registration.

He next proceeds to consider the various grounds of disfranchisement provided for in the bills. In his opinion, (4), the sections which "deny the right to vote to such as may be disfranchised for participation in the rebellion or felony at common law," must be interpreted to mean that "the mere fact of such participation, or the commission of the felonious act, does not of itself work as a disfranchisement. It must be ascertained by the judgment of a court, or by a legislative act, passed by competent authority." But the applicant for registration must swear that "I have never been a member of any state Legislature, nor held any executive or judicial office, and afterward engaged in insurrection or rebellion against the United States; that I have never taken an oath as a member of the Congress of the United States, 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, and afterward engaged in insurrection or rebellion against the United States." This provision, in the opinion of the attorney general, certainly excludes (5) members of Congress, of state Legislatures, and of Conventions which passed ordinances of secession. Then as to who are to be considered as intended by executive and judicial officers of the state, he gives his opinion that (6) officers of the militia of a state are not as such intended; that (7) governors, state treasurers, and others, commonly designated as "state officers," who "exercise executive functions at the seat of government," and also judicial officers whose jurisdiction extends through the state, are included; but that (8) those functionaries commonly known as "county, township, and precinct officers," sheriffs, county judges, commissioners of public works and improvements, and the like, are not included.

Under the provision working disfranchisement on account of the person having taken an oath to support the Constitution, and afterward engaged in insurrection, he holds that (9) the two things must concur, and "in the order of time mentioned: First, the office and the oath; and afterward engaging in the rebellion or giving aid and comfort." Hence (10) "a person who has held an office within the meaning of this law, and taken the official oath, and who has not afterward participated in the rebellion; and so too the person who has fully participated in the rebellion, but has not prior thereto held an office and taken the official oath, may with safety take the oath" required for registration.

The attorney general then proceeds to consider "what acts, within the meaning of the law, make a party guilty of engaging in insurrection or rebellion against the United States, or of giving aid or comfort to the enemies thereof?" As to official acts, he thinks that the phrase "enemies," to whom "aid and comfort" has been given, should in strict law be limited to mean only "foreign enemies;" but he adds, (11), "I am not quite prepared to say that Congress may not have used it as applicable to the late rebellion," and therefore he goes on to inquire "what is meant by engaging in insurrection or rebellion against the United States?" It implies, he thinks, (12), "active rather than passive conduct, voluntary rather than compulsory action." Hence it does not include (13) such cases as that of a person who has been forced into the ranks by conscription, or a slave who, by command of his master, or by military order, has been engaged upon military works or served in the ranks of the army. But (14) it does include many who, without having actually been in arms, were engaged in the furtherance of the common unlawful purpose, such as "members of Congress and rebel Conventions, diplomatic agents of the rebel Confederacy, or such other officials whose duties more especially appertained to the support of the rebel cause." Yet, on the other hand, it does not (15) include "officers in the rebel states who, during the rebellion, discharged duties not incident to the war. The interests of humanity," the attorney general argues, "require such officers for the performance of such official duties in time of war or insurrection as well as in time of peace, and the performance of such duties can never be considered as criminal."

From official participation the attorney general goes on to discuss what constitutes, in the view of this law, individual participation in the rebellion, premising that in the case of a great insurrection, which for a time excluded the people from the protection of the lawful government, the "obligations of allegiance are necessarily modified," and that many things should be considered as "rightfully done which in the case of a mere local insurrection would have no color of legality." He concludes, therefore, (16), that "some direct overt act, done with the intent to further the rebellion, is necessary to bring the party within the purview and meaning of the law." The expression of disloyal sentiments, the performance of acts of ordinary charity and humanity, the payment of taxes or forced contributions and the like, are not sufficient. But (17) "voluntary contributions in furtherance of the rebellion, or subscriptions to the rebel loan, and even organized contributions of food and clothing or necessary supplies, except of a strictly sanitary character, are to be classed with acts which disqualify."

mere fact of participation in the rebellion does not of itself work disfranchisement, except as it had been declared to have that effect by the judgment of a court or by a legislative act passed by competent authority. The attorney general also construed the Military Bill as not intending the disfranchisement of those who had held minor executive offices of a local nature under the Confederate government, nor those who had not *voluntarily* engaged in rebellion. He declared also that, under the law, registering officers could not refuse to permit every applicant to take the oath required; and that the oath once taken, and the applicant's name once registered, the privilege of voting could not be withdrawn.

Invested with this legal authority, President Johnson issued an order to each of the military commanders, directing them to conform to the opinion of the attorney general. The value of a legal opinion had such an impression upon the President that he shortly afterward obtained another from the same source, the purport of which was that the military commanders had no right to remove civil officers, and that therefore Mr. Wells, whom Sheridan had removed, was still the rightful governor of Louisiana, and John T. Monroe (also removed by the same officer) was mayor of New Orleans.

Congress met again July 4, and continued in session for sixteen days. In this brief period a new bill was matured and passed, defining the military acts of the two previous sessions.[1] This explanatory act completely annulled the attorney general's opinions, and left no room for doubt as to the intentions of Congress in its plan of Southern reconstruction. The President returned the bill with his objections July 19. In this veto message he denounced with equal bitterness the despotic powers conferred upon military commanders, and the limitations imposed, against the manifest intent of the Constitution, upon the executive.[2] The bill was passed over Johnson's veto.

But the President did not relinquish his claim to the authority which he conceived rightfully belonged to him as the executive head of the nation. Scarcely had Congress adjourned when he addressed a note[1] to Secretary Stanton, stating that "grave public considerations" constrained him to request the secretary's resignation. Mr. Stanton replied, "Grave public considerations constrain me to continue in the office of Secretary of War until the next meeting of Congress." The secretary had originally co-operated with the President's plan of Southern restoration, but after the elections of 1866 he went over to Congress. His position in the cabinet thus became very embarrassing. He could not resign his position without disappointing Congress, and, as he believed, the people; nor could he retain the secretaryship without violating the hitherto well understood principles of official courtesy. But Johnson relieved him of his embarrassment on the 12th of August by removing him, ordering General Grant to assume the duties of acting Secretary of War. Stanton then submitted, "under protest," as he said, "to the superior force of the President." The general satisfaction of the people with the administration of the war office by General Grant soon reconciled them to the change, and the President's palpable defiance of the Tenure of Office Bill was for a time substantially ignored.

Five days after the removal of Secretary Stanton, the President drew up an order removing General Sheridan from the command of the Fifth Military District, and appointing General Thomas in his stead. This did not meet with General Grant's approbation. The general boldly defended Sheridan on the ground that the military district was the most difficult one in the South to manage; that this difficulty had grown out of the prevailing impression among the people of that district that the President was about to remove Sheridan; and that, under these circumstances, General Sheridan had been compelled to resort to the arbitrary measures which the President disapproved. General Grant also objected to the change as being an impolitic one at the time. But the President insisted; Grant submitted, and the order was issued on the 26th. General Thomas declined the appointment, and General Hancock finally assumed the important office from which Sheridan had been removed.

Almost simultaneously, General Sickles was removed from the command of the Second District, embracing North and South Carolina, and General Canby was appointed in his stead. The removals of Stanton, Sheridan, and Sickles, following each other in quick succession, excited considerable apprehension in the North, which was exaggerated by flying rumors that the President was now prepared to resist Congress by force, that Maryland militia were being trained for his support, and that the country was on the verge of a *coup d'etat*. Indeed, it was impossible to say what thunderbolts the President was *not* prepared to fulminate against the legislative department of the government. The autumn elections were at hand, in which a second appeal was to be made to the people, and these popular fears were used by Republican orators as an argument for the support of Congress and its military reconstruction enactments.

The results of the autumn elections of 1867 were a surprise to the Republican party. In California, on the 4th of September, the Democratic candidate for governor was elected by a majority of 7466 over both the opposing Republican candidates; a Democratic Legislature was also elected, involving the loss of a Republican United States senator. Five days later, the Maine election resulted in a falling off from Republican majority of 14,000 votes. On the 8th of October elections took place in Pennsylvania, Ohio, Indiana, Iowa, and West Virginia. In Pennsylvania there was a Republican loss of 18,000 as compared with the previous year. Ohio elected a Republican governor, but lost so largely in the Legislature as to secure a Democratic United States senator at the expiration of Benjamin F. Wade's term. There was a Republican loss in that state of 40,000 votes. In Indiana only local officers were elected. In Iowa there was a Republican loss of over 10,000. On the 5th of November, elections were held in New York, New Jersey, Massachusetts, Maryland, Illinois, Wisconsin, Minnesota, and Kansas, and with similar results. In New York, a Democratic secretary of state was elected by a majority of 48,922. There was in that state a Republican loss of over 62,000 votes. In Massachusetts, Governor Bullock, Republican, was re-elected by 25,000 majority, showing a falling off of 32,000 from the majority of 1866. In New Jersey there was a Democratic majority of about 15,000, the Republican loss being about 18,000. Maryland went Democratic by a majority of 40,000, against 13,000 in 1866. In Illinois the elections were local. Wisconsin elected a Republican governor by 4000, a loss from the previous year of 20,000. In Minnesota there was a falling off of over 6000 from the Republican majority of 1866. Estimating by majorities, the Republican loss indicated in all the elections was over 250,000.

In Kansas, Minnesota, Ohio, and Pennsylvania, the people voted upon a constitutional amendment, allowing negroes to vote in these states. The amendment was defeated by heavy majorities in all except Minnesota.

In respect to the functions of the Boards of Registration and Election, the attorney general holds (18) that they can impose no oath other than that prescribed by this law; that (19) they must administer the oath to all who will take it, "the oath being the only and sole test of the qualification of the applicant;" that (20) if a person takes the oath his name must go upon the register; and that (21) his name being on the register, he must be allowed to vote. "There is no provision," adds the attorney general, "to surcharge or falsify, or add a single name to the registration, or erase a single name that appears upon it."

[1] The following are in brief the provisions of this explanatory act:

Sec. 1. "That it is hereby declared to have been the true intent and meaning of the act of the 2d day of March, 1867, entitled an Act to Provide for the more efficient Government of the Rebel States, thereto passed the 23d of March, 1867, that the governments then existing in the rebel states of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas were not legal state governments, and that thereafter said governments, if continued, shall be subject in all respects to the military commanders of the respective districts, and to the paramount authority of Congress."

Sec. 2. "That the commander of any district named in said act shall have power, subject to the disapproval of the general of the army of the United States, and to have effect till disapproved, whenever, in the opinion of such commander, the proper administration of said act shall require it, to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or person holding or exercising, or professing to hold or exercise, any civil or military office or duty in such district, under any power, election, appointment, or authority, derived from, or granted by, or claimed under any so-called state or the government thereof, or municipal or other division thereof; and upon such suspension or removal such commander, subject to the disapproval of the general as aforesaid, shall have power to provide from time to time for the performance of the said duties of such officer or person so suspended or removed by the detail of some competent officer or soldier of the army, or by the appointment of some other person to perform the same, and to fill the vacancies occasioned by death, resignation, or otherwise."

Sec. 3. "That the general of the army of the United States be invested with all the powers of suspension, removal, appointment, and detail granted in the preceding section to district commanders."

Sec. 4. "That the acts of the officers of the army already done in removing, in said districts, persons exercising the functions of civil officers, and appointing others in their stead, are hereby confirmed, provided that any person heretofore or hereafter appointed by any district commander to exercise the functions of any civil office may be removed, either by the military officer in command of the district or by the general of the army, and it shall be the duty of such commander to remove from office as aforesaid all persons who are disloyal to the government of the United States, or who use their official influence in any manner to hinder, delay, prevent, or obstruct the due and proper administration of this act and the acts to which it is supplementary."

Sec. 5 makes it the duty of the Boards of Registration, before allowing any person to be registered, to ascertain whether he is entitled to registration; and the oath of the person is not to be conclusive evidence; and no person shall be registered unless the board decides that he is entitled thereto; and "no person shall be disqualified as member of any Board of Registration by reason of race or color."

Sec. 6 declares that the true intent and meaning of the oath prescribed in the supplementary act is, among other things, "that no person who has been a member of the Legislature of any state, or who has held any executive or judicial office in any state, whether he has taken an oath to support the Constitution or not, and whether he was holding such office at the commencement of the rebellion, or had held it before and who has afterward engaged in rebellion against the United States, or given aid and comfort to the enemies thereof, is entitled to be registered or vote; and the words 'executive or judicial office in any state,' in said oath mentioned, shall be construed to include all civil officers created by law for the administration of any general law of a state, or for the administration of justice."

Sec. 7 authorizes the commander of any district to extend the period for registration until the 1st of October, 1867. Makes it their duty, commencing fourteen days previous to any election under the act, and for a period of five days, to revise the registration list, strike off the names of all persons not entitled thereto, and add any names of persons so entitled which have not been registered; "and no person shall at any time be entitled to be registered or to vote by reason of any executive pardon or amnesty for any act or thing which, without such pardon or amnesty, would disqualify him from registration or voting."

Sec. 8. "That all members of said Boards of Registration, and all persons hereafter elected or appointed to office in said military districts, under any so-called state or municipal authority, or by detail, or appointment of the district commanders, shall be required to take and subscribe to the oath of office prescribed by law for the officers of the United States."

Sec. 9. "That no district commander or member of the Board of Registration, or any officers or appointees acting under them, shall be bound in his action by any opinion of any civil officer of the United States."

Sec. 10. "That section 4 of said last-named act shall be construed to authorize the commanding general named therein, whenever he shall deem it needful, to remove any member of a Board of Registration, and to appoint another in his stead, and to fill any vacancy in such board."

Sec. 11. "That all the provisions of this act, and of the acts to which this is supplementary, shall be construed liberally, to the end that all the intents thereof may be fully and perfectly carried out."

[2] The President thus concludes his message:

"Within a period less than a year the legislation of Congress has attempted to strip the executive department of the government of some of its essential powers. The Constitution, and the oath provided in it, devolve upon the President the power and duty to see that the laws are faithfully executed. The Constitution, in order to carry out this power, gives him the choice of the agents, and makes them subject to his control and supervision; but, in the execution of these laws, the constitutional obligation upon the President remains, but the power to exercise that constitutional duty is effectually taken away. The military commander is, as to the power of appointment, made to take the place of the President, and the general of the army the place of the Senate, and any attempt on the part of the President to assert his own constitutional power may, under pretense of law, be met by official insubordination. It is to be feared that these military officers, looking to the authority given by these laws rather than to the letter of the Constitution, will recognize no authority but the commander of the district and the general of the army. If there were no other objections than this to this proposed legislation, it would be sufficient. While I hold the chief executive authority of the United States, while the obligation rests upon me to see that all the laws are faithfully executed, I can never willingly surrender that trust or the powers given for its execution. I can never give my assent to be made responsible for the faithful execution of laws, and at the same time surrender that trust and the powers which accompany it to any other executive officer, high or low, or to any number of executive officers. If this executive trust, vested by the Constitution in the President, is to be taken from him and vested in a subordinate officer, the responsibility will be with Congress in clothing the subordinates with unconstitutional power, and with the officer who assumes its exercise. This interference with the constitutional authority of the executive department is an evil that will inevitably sap the foundations of our federal system; but it is not the worst evil of this legislation. It is a great public wrong to take from the President powers conferred on him alone by the Constitution; but the wrong is more flagrant and more dangerous when the powers so taken from the President are conferred upon subordinate executive officers, and especially upon military officers. Over nearly one third of the states of the Union military power, regulated by no fixed law, rules supreme. Each of the five district commanders, though not chosen by the people, or responsible to them, exercises at this hour more executive power, military and civil, than the people have ever been willing to confer upon the head of the executive department, though chosen by and responsible to themselves."

[1] August 5, 1867.

It is evident from these estimates that there had been a popular reaction. In 1866, the people had decided against President Johnson—now they appeared to mutter against Congress. It must be remembered, however, that in most of the states the elections were of such a character as not to draw out the full strength of the Republican party. Still, even making this allowance, the people evidently disapproved of the temper and spirit which characterized the proceedings of Congress in this matter of reconstruction. It would hardly be fair to infer from the elections that the people were opposed to *what* Congress had done; but the manner in which Congress proceeded, apparently assuming that any measures, however extreme, would receive popular support, indicated that some check must be put upon that body. There was another consideration of the utmost importance, and which largely affected the popular vote. Before another general election could take place, the party Conventions would meet for the nomination of presidential candidates. The prominent leaders of the Republican party were evidently determined to select some one representing the extreme views of that party. It was important that this should not be done, and yet quite certain that it would be attempted, if in the elections the Republican party should receive the same support as in 1866. This consideration materially affected the result of the elections. Thousands of Republicans staid away from the polls, wishing neither to support Democratic candidates, nor to give their sanction to the extreme views of their own party leaders. As to the vote in four of the states upon negro suffrage, the result had no special significance, for the issue presented had none. The refusal of Ohio to allow colored citizens to vote did not by any means imply opposition to negro suffrage as a feature of the military reconstruction bill. In Ohio, as in all the Northern States, the only question involved in this matter was one between an abstract principle and the prejudice of race; but not so in the Southern States, one third of whose entire population was colored. Here there were questions of expediency as well as of abstract justice to be considered. The exclusion of the vast colored population of the South from negro suffrage involved dangers not only to the future tranquillity of the states themselves, but to the peace of the nation. The perils which many feared from this universal or impartial suffrage were mainly imaginary. President Johnson predicted that it would bring on a war of races; but it would seem far more reasonable to expect such a war to follow the exclusion of a very large class from all political power. The moment the negro becomes invested with political rights, the very basis for the antagonism of races is removed.

When Congress again assembled on the 21st of November, its proceedings were characterized by greater moderation, but it steadfastly adhered to its policy of restoration. The President's message was for the most part a reiteration of the arguments upon which he had insisted from the beginning of his administration. He urged the repeal of those "acts of Congress which place ten of the states under the domination of military masters." He denounced the policy of negro suffrage and white disfranchisement as the "subjugation of these states to negro domination, and worse than military despotism." He alluded to certain cases in which it would become the President's duty to resist Congressional enactments by force, "regardless of consequences." "If, for instance," said he, "the legislative department should pass an act, even through all the forms of law, to abolish a co-ordinate branch of the government, in such a case the President must take the high responsibility of his office, and save the nation at all hazards."

In January, the Thirty-ninth Congress had passed a resolution looking toward the impeachment of President Johnson, and directing the judiciary committee to investigate his official conduct. This committee, at the close of the session on March 4th, had delivered over its duties and the results of its inquiry to its natural successor. In June, the judiciary committee of the Fortieth Congress, after a careful sifting of the testimony offered, stood four for and five against impeachment. But one of the members, who in June had been opposed to impeachment—Mr. John C. Churchill—changed his mind before the beginning of the November session, and thus the measure came before the House on the 25th supported by a majority report.[1] Two minority reports were also submitted. It is clear that the President had been guilty of no offense indictable by law; and both the American and British law on this subject determine that impeachment can not rest except upon offenses of this character. Besides, the impeachment of President Johnson, simply because his policy was opposed to that of the legislative department of the government, would establish a dangerous precedent, which could be used against any president by any dominant political party opposed to him. The House wisely, therefore, refused to adopt the report of the majority.

President Johnson, after having once entered into the conflict against Congress, fought obstinately for the success of his own policy of reconstruction. His legal arguments, however wise in theory, were almost always practically false. His angry denunciation of his opponents weakened the popular confidence in his wisdom and capacity for the successful leadership of any party. His subsidizing of all the subordinate offices of the government for his own purposes promised to reinaugurate the system of official corruption under which the national politics had degenerated through a long series of administrations previous to the election of Mr. Lincoln. This excited greater fear and distrust, because an enormous national debt, involving a most intricate system of internal revenue, had infinitely increased the opportunities for corruption. Johnson's administration completely disappointed the American people. It was notoriously corrupt. It misled the Southern people, sharpening continually the edge of their defiance. It drove Congress and the loyal people to the alternative of a surrender to what they believed a mistaken policy, or of adopting extreme measures, which otherwise they would have reluctantly sanctioned. It was a failure as regarded its own purposes, and an obstruction to the national development.

As we write (December, 1867) the Congressional plan of reconstruction is still in its preliminary stages. Registrations have been completed in all the ten states under military rule, and in most of them show a majority of colored voters. Elections have been held in several of these states, and in some the Conventions are now in session. The delegates of these Conventions are almost all supporters of the Congressional policy; and it is probable that the Constitutions framed by them will be ratified by the several states, and that they will include provisions for impartial or universal suffrage. Whether in other respects—for example, in the disfranchisement of a large number of whites—they will meet the approbation of Congress after the recent elections in the North, we can not predict. It seems certain, however, that, whatever else may fail, the principle of "equal rights for all men, without distinction of color," will be maintained in the next presidential election and in the election of a new Congress. But prophecy belongs not to the historian. We will not seek to lift the veil of our future. With the recital of the events of the last seven years our proper work concludes. What remains to be written we leave to other hands; what we have written we now submit to the charitable but impartial judgment of our readers.

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[1] The charges brought in this report against the President were the following:

"1st. That the President of the United States, assuming it to be his duty to execute the constitutional guarantee, has undertaken to provide new governments for the rebellious states without the consent or co-operation of the legislative power, and upon such terms as were agreeable to his own pleasure, and then to force them into the Union against the will of Congress and the people of the loyal states, by the authority and patronage of his high office.

"2d. That to effect this object he has created offices unknown to the law, and appointed to them, without the advice or consent of the Senate, men who were notoriously disqualified to take the test oath, at salaries fixed by his own mere will, and paid those salaries, along with the expenses of his work, out of the funds of the War Department, in clear violation of law.

"3d. That, to pay the expenses of the said organizations, he has also authorized his pretended officers to appropriate the property of the government, and to levy taxes from the conquered people.

"4th. That he has surrendered, without equivalent, to the rebel stockholders of Southern railroads captured by our arms, not only the roads themselves, but the rolling-stock and machinery captured along with them, and even roads constructed or renovated at an enormous outlay by the government of the United States itself.

"5th. That he has undertaken, without authority of law, to sell and transfer to the same parties, at a private valuation and on a long credit, without any security whatever, an enormous amount of rolling-stock and machinery, purchased by and belonging to the United States, and after repeated defaults on the part of the purchasers, has postponed the debt due to the government in order to enable them to pay the claims of other creditors, along with arrears of interest on a large amount of bonds of the companies, guaranteed by the State of Tennessee, of which he was himself a large holder at the time.

"6th. That he has not only restored to rebel owners large amounts of cotton and other abandonded property that had been seized by the agents of the treasury, but has presumed to pay back the proceeds of actual sales made thereof, at his own will and pleasure, in utter contempt of the law directing the same to be paid into the treasury, and the parties aggrieved to seek their remedy in the courts, and in manifest violation of the true spirit and meaning of that clause of the Constitution of the United States which declares that no 'money shall be drawn from the treasury but in consequence of appropriations made by law.'

"7th. That he has abused the pardoning power conferred on him by the Constitution, to the great detriment of the public, in releasing, pending the condition of war, the most active and formidable of the leaders of the rebellion, with a view to the restoration of their property and means of influence, and to secure their services in the furtherance of his policy; and, further, in substantially delegating that power for the same objects to his provisional governors.

"8th. That he has further abused this power in the wholesale pardon, in a single instance, of 193 deserters, with restoration of their justly forfeited claims upon the government for arrears of pay, without proper inquiry or sufficient evidence.

"9th. That he has not only refused to enforce the laws passed by Congress for the suppression of the rebellion, and the punishment of those who gave it comfort and support, by directing proceedings against the delinquents and their property, but has absolutely obstructed the course of public justice, by either prohibiting the initiation of legal proceedings for that purpose, or, where already commenced, by staying the same indefinitely, or ordering absolutely the discontinuance thereof.

"10th. That he has further obstructed the course of justice by not only releasing from imprisonment an important state prisoner, in the person of Clement C. Clay, charged, among other things, as asserted by himself in answer to a resolution of the Senate (Ex. Doc., 39th Congress, No. 7), 'with treason, with complicity in the murder of Mr. Lincoln, and with organizing bands of pirates, robbers, and murderers in Canada, to burn the cities and ravage the commercial coasts of the United States on the British frontier,' but has even forbidden his arrest on proceedings instituted against him for treason and conspiracy in the State of Alabama, and ordered his property, when seized for confiscation by the district attorney of the United States, to be restored.

"11th. That he has abused the appointing power lodged with him by the Constitution:

"1. In the removal, on system, and to the great prejudice of the public service, of large numbers of meritorious public officers, for no other reason than because they refused to indorse his claim of the right to reorganize and restore the rebel states on conditions of his own, and because they favored the jurisdiction and authority of Congress in the premises.

"2. In reappointing, in repeated instances, after the adjournment of the Senate, persons who had been nominated by him and rejected by that body as unfit for the place for which they had been so recommended.

"12th. That he has exercised a dispensing power over the laws by commissioning revenue officers and others unknown to the law, who were notoriously disqualified by their participation in the rebellion from taking the oath of office required by the act of Congress of July 2, 1862, allowing them to enter upon and exercise the duties appertaining to their respective offices, and paying to them salaries for their services therein.

"13th. That he has exercised the veto power conferred on him by the Constitution in its systematic application to all the important measures of Congress looking to the reorganization and restoration of the rebel states, in accordance with a public declaration that 'he would veto all its measures whenever they came to him,' and without other reasons than a determination to prevent the exercise of the undoubted power and jurisdiction of Congress over a question that was cognizable exclusively by them.

"14th. That he has brought the patronage of his office into conflict with the freedom of elections by allowing and encouraging his official retainers to travel over the country, attending political conventions and addressing the people, instead of attending to the duties they were paid to perform, while they were receiving high salaries in consideration thereof.

"15th. That he has exerted all the influence of his position to prevent the people of the rebellious states from accepting the terms offered to them by Congress, and neutralized, to a large extent, the effects of the national victory by impressing them with the opinion that the Congress of the United States was bloodthirsty and implacable, and that their only hope was in adhering to him.

"16th. That, in addition to the oppression and bloodshed that have every where resulted from his undue tenderness and transparent partiality for traitors, he has encouraged the murder of loyal citizens in New Orleans by a Confederate mob pretending to act as a police, by holding correspondence with its leaders, denouncing the exercise of the constitutional right of a political Convention to assemble peacefully in that city as an act of treason proper to be suppressed by violence, and commanding the military to assist instead of preventing the execution of the avowed purpose of dispersing them.

"17th. That he has been guilty of acts calculated, if not intended, to subvert the government of the United States by denying that the Thirty-ninth Congress was a constitutional body, and fostering a spirit of disaffection and disobedience to the law and rebellion against its authority, by endeavoring, in public speeches, to bring it into odium and contempt."