A

POLITICAL MANUAL FOR 1867,

INCLUDING A CLASSIFIED SUMMARY OF THE IMPORTANT

EXECUTIVE, LEGISLATIVE, JUDICIAL,

AND

POLITICO-MILITARY FACTS OF THE PERIOD,

FROM JULY 4, 1866, TO APRIL 1, 1867,

INCLUDING THE

LATE ACTION OF CONGRESS ON RECONSTRUCTION.

BY EDWARD MCPHERSON,
Clerk of the House of Representatives of the United States.

WASHINGTON, D. C.
PHILIP & SOLOMONS.
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PREFACE.

This Volume takes up the thread dropped at the close of the Manual for 1866, and continues it through the remainder of the First Session of the Thirty-Ninth Congress, the whole of the Second Session, and of the First Session of the Fortieth. It preserves also the more memorable features of the political campaign of the fall of last year.

The controversy between the President and Congress has resulted in most important legislation, eminent among which is the Civil Tenure Act. A copy of it is given in full, with the votes which passed it. The Volume also contains copies of the Freedmen's Bureau Act, the District of Columbia Suffrage Act, the Fourteenth Constitutional Amendment, and each of the Reconstruction Acts—the last two constituting the text of the measures which constitute the policy of Congress towards the Insurrectionary States. It also gives the dissenting views of the President, the Opinions of the Judiciary upon points of current or abiding interest, the Orders of the Military enforcing the law, the Votes in Congress and State Legislatures upon various Political Propositions, the Declarations of State Conventions of both parties, and a variety of inferior facts illustrating the general subject.

It has been thought desirable to re-produce an accurate copy of the Kentucky and Virginia resolutions of 1798, on account of the frequency of reference to them in political discussion, and their relation to the story of secession.

In the votes given, the names of Democrats are italicized.

If the Manual should prove of service in presenting the precise points of difference between parties, and the exact action of each upon the topics within its scope, the purpose of its preparation will be attained.

EDWARD McPHERSON.

WASHINGTON, D. C., April 25, 1867.
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POLITICAL MANUAL FOR 1867.

XIV.

PRESIDENT JOHNSON'S SPEECHES.

On receiving the Proceedings of the Philadelphia 14th of August Convention.

1866, August 18—A committee of the Convention presented the proceedings through their Chairman, Hon. Reverdy Johnson, who made some remarks in so doing.

President Johnson replied:

Mr. Chairman and Gentlemen of the Committee: Language adequate to express the emotions and feelings produced by this occasion, perhaps I could express more by permitting silence to speak and you to infer what I ought to say. I confess that, notwithstanding the experience I have had in public life and the audiences I have addressed, this occasion and this assembly are calculated to, and do, overwhelm me. As I have said, I have not language to convey adequately my present feelings and emotions.

In listening to the address which your eloquent and distinguished chairman has just delivered, the proceedings of the Convention, as they transpired, recurred to my mind. Seemingly, I partook of the inspiration that prevailed in the Convention when I received a dispatch, sent by two of its distinguished members, conveying in terms the scene which has just been described, of South Carolina and Massachusetts, arm in arm, marching into that vast assembly, and thus giving evidence that the two extremes had come together again, and that for the future they were united, as they had been in the past, for the preservation of the Union. When I was thus informed that in that vast body of men, distinguished for intellect and wisdom, every eye was suffused with tears on beholding the scene, I could not finish reading the dispatch to one associated with me in the office, for my own feelings overcame me. [Applause.] I think we may justly conclude that we are acting under a proper inspiration, and that we need not be mistaken that the finger of an overruling and unerring Providence is in this great movement.

The nation is in peril. We have just passed through a mighty, bloody, momentous ordeal; and yet do not find ourselves free from the difficulties and dangers that at first surrounded us. While our brave soldiers, both officers and men, [turning to General Grant, who stood at his right.] by their heroism won laurels imperishable, there are still greater and more important duties to perform; and while we have had our co-operation in the field, now that they have returned to civil pursuits, we need their support in our efforts to restore the Government and perpetuate peace. [Applause.] So far as the executive department of the Government is concerned, the effort has been made to restore the Union, to heal the breach, to pour oil into the wounds which were consequent upon the struggle, and (to speak in common phrase) to prepare, as the learned and wise physician, for the preservation of the Union. When I was thus informed that in that vast body of men, distinguished for intellect and wisdom, every eye was suffused with tears on beholding the scene, I could not finish reading the dispatch to one associated with me in the office, for my own feelings overcame me. [Applause.] I think we may justly conclude that we are acting under a proper inspiration, and that we need not be mistaken that the finger of an overruling and unerring Providence is in this great movement.

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I know it has been said (and I must be permitted to indulge in the remark) that the executive department of the Government has been despotic and tyrannical. Let me ask this audience of distinguished gentlemen to point to a vote I ever gave, to a speech I ever made, to a single act of my whole public life, that has not been against tyranny and despotism. What position have I ever occupied, what ground have I ever assumed, where can it be truthfully charged that I failed to advocate the amelioration and elevation of the great masses of my countrymen? [Cries of “Never,” and great applause.]

So far as charges of this kind are concerned, they are simply intended to delude the public mind into the belief that it is not the designing men who make such accusations, but some one else in power, who is usurping and trampling upon the rights and perverting the principles of the Constitution. It is done by them for the purpose of covering their own acts. [“That’s so,” and applause.] And I have felt it my duty, in vindication of principle, to call the attention of my countrymen to their proceedings. When we come to examine who has been playing the part of the tyrant, by whom do we find despotic and tyrannical? [Great applause.] I proclaim here to the American people to hear and properly understand and comprehend what the struggle was about, determined by the many than the one. We have seen Congress gradually encroach step by step upon constitutional rights, and violate, day after day and month after month, fundamental principles of the Constitution. [Cries of “That’s so,” and applause.] We have seen a Congress that seemed to forget that there was a limit to the sphere and scope of legislation. We have seen a Congress in a minority assume to exercise power which, if allowed to be consummated, would result in despotism or monarchy itself. [Enthusiastic applause.] This is true; and because others, as well as myself, have seen proper to appeal to the patriotism and republican feeling of the country, we have been denounced in the severest terms. Slender upon slander, vilification upon vilification, of the most virulent character, has made its way through the press. What, gentlemen, has been your and my aim? What has been the cause of our offending? I will tell you. Daring to stand by the Constitution of our fathers.

Mr. Chairman, I consider the proceedings of this Convention equal to, if not more important than, those of any convention that ever assembled in the United States. [Great applause.] When I look upon that collection of citizens coming together voluntarily, and sitting in council, with ideas and principles and views commensurate with all the States, and co-extensive with the whole people, and contrast it with a Congress whose policy, if persisted in, will destroy the country, I regard it as more important than any convention that has sat—at least since 1787. [Renewed applause.] I think I may also say that the declarations that were there made and enacted are equal to those contained in the Declaration of Independence itself, and I here-to-day pronounce them a second Declaration of Independence. [Cries of “Glorious!” and enthusiastic and prolonged applause.] Your address and declarations are nothing more or less than a reaffirmation of the Constitution of the United States. [Cries of “Good!” and applause.]

Yes, I will go further, and say that the declarations you have made, that the principles you have enunciated in your address, are a second proclamation of emancipation to the people of the United States. [Renewed applause.] For in proclaiming and reproclaiming these great truths you have laid down a constitutional platform on which all, without reference to party, can make common cause, engage in a common effort to break the tyranny which the dominant party in Congress has so unrelentingly exercised, and stand united together for the restoration of the States and the preservation of the Government. The question only is the salvation of the country; for our country rises above all party consideration or influences. [Cries of “Good!” and applause.] How many are there in the United States that now require to be free? They have the shackles upon their limbs and are bound as rigidly by the behests of party leaders in the National Congress as though they were in fact in slavery. I repeat, then, that your declaration is the second proclamation of emancipation to the people of the United States, and offers a common ground upon which all patriots can stand. [Applause.]

In this connection, Mr. Chairman and gentlemen, let me ask what have I to gain more than the advancement of the public welfare? I am as much opposed to the indulgence of egotism as any one; but here, in a conversational manner, while formally receiving the proceedings of this Convention, I may be permitted again to inquire, what have I to gain, consulting human ambi-
In New York, August 29.

GENTLEMEN: The toast which has just been drunk, and the kind sentiments which preceded it, are peculiarly, under existing circumstances, gratifying to me; and in saying they are gratifying to me I wish not to indulge in any vanity. If I were to say less I should not speak the truth, and it is always best to speak the truth and to give utterance to our sincere emotions. In being so kindly attended to, and being received as I have been received on this occasion—here to-night, and in your city to-day by such a demonstration—I am free to confess that this overwhelms me. But the mind would be exceedingly dull and the heart almost without an impulse that could not give utterance to some recognition of what has been said and been done. [Cheers.] And believe me on this occasion, warm is the heart that feels and willingly is the tongue that speaks, and I would to God it were in my power in every town and village, with the civil rights bill following as an auxiliary, to lock by my own hands, with my satraps and dependents in every town and village, with the Constitution of the country, and I may say that I have held, from lowest to highest, almost every station to which a man may attain in our Government, from alderman of a village to the Presidency of the United States. And surely, gentlemen, this should be enough to gratify a reasonable ambition.

If I had wished authority, or if I had wished to perpetuate my own power, how easily could I have held and wielded that which was placed in my hands by the people, with the measure called the Freedmen's Bureau, or with an army, which it placed at my discretion, I could have remained at the capital of the nation, and with fifty or sixty millions of appropriations at my disposal, with the machinery to be unlocked by my own hands, with my satraps and dependents in every town and village, with the power in the hands of the people. [Great cheering.]

It is upon them I have always relied; it is upon them I rely now. [A voice: “And the people shall not disappoint you.”] I repeat, that neither the terrors nor jeers of Congress, nor of a subsidized, calumniating press, can drive me from my purpose. (Great applause.) Mr. Chairman, I have said more than I had intended to say. For the kind allusion to myself, contained in your address, I thank you. In this crisis, and at the present period of my public life, I hold above all prize, and shall ever recur with feelings of profound gratitude, to the resolution containing the endorsement of a convention emanating spontaneously from the great mass of the people. With conscious convictions as my courage, the Constitution as my guide, and my faith in the people, I trust and hope that my future action may be such that you and the Convention you represent may not regret the assurance of confidence you have so generously expressed. [“We are sure of it.”]

Before separating, my friends, one and all, please accept my hearty thanks for the kind manifestations of regard and respect you have exhibited on this occasion.

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and others to perform. [Cheers.] I must be permitted—and I shall not trespass upon you a moment—I must be permitted to remark in this connection, that the Government commenced the suppression of this rebellion for the express purpose of preserving the union of these States. [Cheers.] That was the declaration that it made, and under that declaration we went into the war and continued in it until we suppressed the rebellion. The rebellion has been suppressed, and in the suppression of the rebellion it has declared and announced and practised the great fact that these States had not the power, and it denied their right, by forcible or by peaceable means, to separate themselves from the Union. [Cheers.]

The rebellion is at an end, and the States again assume their position and renew their relations, as far as in them lies, with the Federal Government, we find that when they present representatives to the Congress of the United States, in violation of the Constitution, in express terms, as well as in spirit, that these States of the Union have been and still are denied their representation in the Senate and in the House of Representatives. Will we then, in the struggle which is now before us, submit, will the American people submit, to this practical dissolution, a doctrine that we have declared, as having no justice or right? The issue is before you and before the country. Will these States be permitted to continue and remain as they are in practical destruction, so far as representation is concerned? It is giving the lie direct—it is subverting every single argument and position we have made and taken since the rebellion commenced. Are we prepared now, after having passed through this rebellion; are we prepared, after the immense amount of blood that has been shed; are we prepared, after having accumulated a debt of over three thousand millions of dollars; are we prepared, after all the injury that has been inflicted upon the people, North and South, of this Confederacy, now to continue this disrupted condition of the country? [Cheers. "No, no!" "Never!" "Cheers." Let me ask this intelligent audience here to-night, in the spirit of Christianity and of sound philosophy, are we prepared to renew the scenes through which we have passed? ["No! no! no!""] Are we prepared again to see one portion of this Government arrayed in deadly conflict against another portion? Are we prepared to see the North arrayed against the South, and the South against the North? Are we prepared, in this fair and happy Government of freedom and of liberty, to see man again set upon man, and in the name of God lift his hand against his fellow? Are we again prepared to see these fair fields of ours, this land that gave a brother birth, again drenched in a brother's blood? ["Never, never." "Cheers."]

Are we not rather prepared to bring from Gilad the balm that has relief in its character and pour it into the wound? [Loud cheering.] Have not we seen enough to talk practically of this matter? Has not this array of the intelligence, the integrity, the patriotism, and the wealth a right to talk practically? Let us talk about this thing. We have known of feuds among families and of dissensions of the most respectable character, which would separate, and the contest would be angry and severe, yet when the parties would come together and talk it all over, and the differences were understood, they let their quarrel pass to oblivion; and we have seen them approach each other with affection and kindness, and felt gratified that the feud had existed, because they could feel better afterwards. [Laughter and applause.] They are our brethren. [Cheers.] They are part of ourselves. ["Hear! hear!" "They are bone of our bone and flesh of our flesh." [Cheers.] They have lived with us and been part of the establishment of the Government to the commencement of the rebellion. They are identified with its history, with all its prosperity, in every sense of the word. We have had united to us, as it were, but that has passed by and we have come together again; and now, after having understood what the feud was, and the great apple of discord removed; having lived under the Constitution of the United States in the past, they ask to live under it in the future. May I be permitted to indulge in a single thought here? I will not detain you a moment. ["Go on," "Go on," "Go on," "Cheers."]

[turning to Mayor Hoffman] You are responsible for having invoked it. [Laughter] What is now said, gentlemen, after the Philadelphia Convention has met to pronounce upon the condition of the country? What is now said? Why, that these men who met in that Convention were insincere; that their utterances were worthless; that it is all pretense, and they are not to be believed. When you talk about it, and talk about red-handed rebels, and all that, who has fought these traitors and rebels with more constancy and determination than the individual now before you? Who has sacrificed and suffered more? [Cheers.] But because my sacrifices and sufferings have been great, and as an incident growing out of a great civil war, should I become dead or insensible to truth or
in this thing, and pretty well broken down, attention to a point. The southern States or to bring to your attention, as I am up, and you must not encourage me too much, "Good! good! "...require sometimes a little effort to get them warmed. [Laughter.] I was going to call your attention to a point. The southern States or their leaders proposed a separation. Now, what was the reason that they offered for that separation? Your attention. The time has come to think; the time has come to consult our brain, and not the impulses and passions of the heart. The time has come when reason should hear away, and feeling and impulse should be subdued. [Cheers.] What was the reason, or one of the reasons at least, that the South gave for separation? It was that the Constitution was encroached upon, and that they were not secured in their rights under it. That was one of the reasons; whether it was true or false, that was the reason assumed. We will separate from this Government, they said, because we cannot have the Constitution executed; and, therefore, we will separate and set up the same Constitution, and enforce it under our own. But it was separation. I fought then against those who proposed this. I took my position in the Senate of the United States, and assumed then, as I have since, that the Union was perpetual, that it was a great magic circle never to be broken. [Cheers.] But the reason the South gave was that the Constitution could not be enforced in the present condition of the country, and hence they would separate. They attempted to separate, but they failed. While the question was pending, they established a form of government under which they were to live, and that form of government was it? What kind of Constitution did they adopt? Was it not the same, with a few variations, as the Constitution of the United States? [Cheers, and "That's so!"] the Constitution of the United States, under which they had lived from the origin of the Government up to the time of their attempt at separation? They made the experiment of an attempted separation under the plea that they desired to live under that Constitution in a government where it would be enforced. We said "You shall not separate, you shall remain with us, and the Constitution shall be preserved and enforced." [Cheers.] The Army and the Navy. The time came when their armies were disbanded under the leadership of my distinguished friend on the right. [General Grant.] "Three cheers for General Grant." The Army and the Navy. The time came when their armies were disbanded under the leadership of my distinguished friend on the right. [General Grant.] "Three cheers for General Grant." The Army and the Navy. The time came when their armies were disbanded under the leadership of my distinguished friend on the right. [General Grant.] "Three cheers for General Grant." The Army and the Navy. The time came when their armies were disbanded under the leadership of my distinguished friend on the right. [General Grant.] "Three cheers for General Grant." The Army and the Navy. The time came when their armies were disbanded under the leadership of my distinguished friend on the right. [General Grant.] "Three cheers for General Grant." The Army and the Navy.
try, an honored portion of the American people, I want them to come back with all their manhood, then they are fit, and not without that, to be a part of these United States. [Cheers. "Three cheers for Andrew Johnson."] I have not, however, approached the point that I intended to mention, and I know I am talking too long. ["Go on."
"Go on."] Why should we distrust the southern people and say they are not to be believed? I have just called your attention to the Constitution under which they were destitute to live, and that was the Constitution of their fathers, yet they wanted it in a separate condition. Having been defeated in bringing about that separation, and having lost the institution called the great and in another class, in returning, take up, that Constitution, under which they always lived, and which they established for themselves, even in a separate government. Where, then, is the cause for distrust? Where, then, is the cause for the want of confidence? Is there any? ["No, no."] I do not come here to-night to apologize for persons who have tried to destroy this Government, and if every act of my life, either in speeches or in practice, does not approve the charge that I want to apologize for them, then there is no use in a man's having a public record. [Cheers.
But I am one of those who take the southern people, with all their blemishes and errors, admitting that in rebellion they did wrong. The leaders coerced thousands and thousands of honest men into the rebellion who saw the old flag flap in the breeze for the last time with unfeigned sorrow, and welcomed it again with joy and thanksgiving. The leaders betrayed and led the southern people while Davis and others were talking about separation in the North; there they came upon this great doctrine of separation, and having lost the institution of slavery would be gone. ["Good, good."] Yes, sir, [turning to Mr. Seward, you know that I made that argument to Jeff Davis. You will bear witness to the position I then occupied.

Mr. JOHNSON. Yes, but I predicted at different times, in the beginning of the late rebellion, what has been literally fulfilled. [Cries of "That's so."] I told the southern peoples years ago, that whenever they attempted to break up this Union, whenever they attempted to do that, even if they succeeded, that the institution of slavery would be gone. ["Good, good."] Yes, sir, [turning to Mr. Seward, you know that I made that argument to Jeff Davis. You will bear witness to the position I then occupied.

Mr. Seward. I guess so. [Applause.

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slaves, in which they had invested their capital. Their investment in the institution of slavery amounted to $3,000,000,000. This they put up at stake, and said they could maintain it by separating these States. That was the experiment; what are the facts of the result? The Constitution still exists. [Great cheering.] The Union is still preserved. [Cheers.] They have not succeeded in going out, and the institution of slavery is gone.

"Hear, hear!" Since it has been gone, they have come up manfully and acknowledged the fact in their State conventions and organizations, and they ratify its fall now and forever. [Cheers.] I have to do with a new capital, New York, this great State, this great commercialemporium—I was asking your mayor to-day the amount of your taxation, and he informs me it is $18,000,000! Where did your Government start from but the other day? Do you remember that when General Washington was inaugurated President, that his annual bill was $2,500,000 for the entire General Government. Yet to-day I am told that my distinguished friend on my left controls the destinies of a city whose taxes amount to $18,000,000, and whose population numbers four millions—double what the entire nation bad at the time it commenced its existence.

General Sandford. Our taxation by the General Government is $50,000,000.

Mr. Johnson. I simply trying to get at the amount collected to maintain your municipal establishment. Thus we advance, entertaining the principles which are coexistent with the States of this Union, feeling, like you, that our system of Government comprehends the whole people, not merely a part. [Applause.] New York has a great work to perform in the restoration of this great Union. As I have told you, they who talk about destroying the great elements that bind this Government together, deny the power, the inherent power, of the Government, which will, when its capacities are put to the test, re-establish and readjust its position, and the Government be restored. [Applause.] I tell you that we shall be sustained in this effort to preserve the Union. It would be just as futile to attempt the resistance of the ocean wave, or to check the wind, as to prevent the result I predict. You have got one other idea to put right alongside of this. [Applause and laughter.] You have got a debt of about $3,000,000,000. ["That's so."] How are you going to preserve the credit of that? Will you tell me? [Voices, "Yes, yes"] How are you to preserve the credit of this $3,000,000,000? Yes, perhaps when the account is made up your debt will be found $3,000,000,000 or $4,000,000,000. Will you tell me how you are going to live it, how the ultimate payment of the principal and interest of this sum is to be secured? Is it by having this Government disrupted? [Mr. Seward and others, "No, no."] Is it by the division of those States? ["No."] Is it by separating this Union into petty States? ["No."] Let me tell you here to-night, my New York friends, I tell you that there is no way by which these bonds can be ultimately paid, by which the interest can be paid, by which the national debt can be sustained, but by the continuity and perpetuity and by the complete union of these States. [Applause.] Let me tell you that when you fall into this fallacy, and into this great heresy, you will reap a more bitter reward than the southern brethren have reaped in putting their capital into slavery.

Mr. Seward, sotto voce. The argument ad hominem. ["Good."]

Mr. Johnson. Pardon me, I do not exaggerate. I understand this question. You who play a false part, now the great issue is past, you who play into the hands of those who wish to dissolve the Government, to continue the disruptive conditions to impair and destroy the public credit, let us unite the Government and you will have more credit than you need. [Applause.] Let the South come back with its great mineral resources; give them a chance to come back and bear a part, and I say they will increase the national resources and the national capacity for meeting these national obligations. I am proud to say on this occasion, not by way of flattery, to the people of New York, but I am proud to find a liberal and comprehensive and patriotic view of this whole question on the part of the people of New York. I am proud to find, too, that here you don't believe that your existence depends upon aggression and destruction; that while you are willing to live, you are willing to let others live. [Applause.] You don't desire the destruction of others. Some have grown fat, some have grown rich by the aggression and destruction of others. It is for you to make the application, and not me. These men talk about what is before you? What is before you? New York, this great State, this great commercial
self upon the cross, and died, that man might be
saved. If I have pardoned many, I trust in God
that I have erred on the right side. If I have
pardoned many, I believe it is all for the best
interests of the country; and so believing, and
convincing that our southern brethren were giv­
ing evidence by their practice and profession
that they were repentant, in imitation of Him
of old who died for the preservation of men, I
exercised that mercy which I believed to be my
duty. I have never made a prepared speech in
my life, and only treat these topics as they occur
to me. My affections of my countrymen, as having consum­
ing the glory of thy salvation, let thy servant depart in peace.

**POLITICAL SALVATION**

1. **In conclusion,** after having consumed more of your
time than I intended, I fear unprofitably, let me propose, in sincerity, **The Union, the perpetual Union of these States.** The toast was drunk with cheers.

**In Cleveland, September 3.**

**FELLOW-CITIZENS:** It is not for the purpose of making a speech that I now appear before you. I am aware of the great curiosity which prevails to see strangers who have notoriety and distinc­tion in all countries. I know a large number of you desire to see General Grant, and to hear what he has to say. **[A voice, “Three cheers for General Grant.”]** But you cannot see him to­night. He is extremely ill. I repeat, I am not free to say to make your acquaintance, to say, “How are you?” and to bid you “Good-by.” We are now on our
way to Chicago, to participate in or witness the
laying of the corner-stone of a monument to the
memory of a distinguished fellow-citizen who is
no more. It is not necessary for me to mention the
name of Stephen A. Douglas to the people of Ohio. **[Applause.]** I am free to say that I
am flattered by the demonstrations I have wit­nessed, and being flattered, I don’t mean to
think it personal, but an evidence of what is
prevailing the public mind. And this demon­
strating is nothing more nor less than an indica­tion of the latent sentiment of feeling of the
great masses of the people with regard to the
proper settlement of this great question.

I come before you as an American citizen
simply, and not as the Chief Magistrate, clothed
in the insignia and paraphernalia of state.
Being an inhabitant of a State of this Union, I
know it has been said that I am an alien
[laughter] and that I did not reside in one of
the States of the Union, and therefore could
not be the Chief Magistrate, though the Consti­
tution declares that I must be a citizen to occupy
that office; therefore, all that was necessary was
to declare the office vacant, or, under a pretext,
to prefer articles of impeachment, and thus the
individual who occupies the Chief Magistracy
was to be disposed of and driven from power.
But a short time since you had a ticket before
you for the Presidency, I was placed upon that
ticket, with a distinguished fellow-citizen who is
now no more. I know there are some who complain. **[A voice, “Unfortunately.”]** Yes,
unfortunately for some that God rules on high and
deals in right. **[Cheers.]** You are not at all
alarmed at the ways of Providence are mysterious and in­
comprehensible, controlling all those who ex­
claim “Unfortunately.” **[Bully for you!]**

I was going to say, my countrymen, a short
time since I was selected and placed upon the
ticket. There was a platform proclaimed and
adopted by those who placed me upon it. Not
withstanding the subsidized gang of hirelings and traitors, I have discharged all my duties and fulfilled all my pledges, and I say here tonight that if my predecessor had lived the vials of wrath would have been poured out upon him. [Cries of “Never.” “Three cheers for the Congress of the United States!”] I came here as I was passing along, and have been called upon for the purpose of exchanging views, and ascertaining, if we could, who was wrong. [Cries of “If you will.”] That was my object in appearing before you tonight, and I want to say this, that I have lived among the American people, and have represented them in some public capacity for the last twenty years, and where is the man or woman who can place his finger upon one single act of mine deviating from any pledge of mine or in violation of the Constitution of the country? [Cheers.] Who is he? What language does he speak? What religion does he profess? Who can come and place his finger on one pledge I ever violated, or one principle I ever proved false to? [A voice, “How about New Orleans?”] Another voice, “Hang Jeff Davis!” Hang Jeff Davis, he says. [Cries of “No,” and “Down with him!”] Hang Jeff Davis, he says. [A voice, “Hang Thad. Stevens and Wendell Phillips.”] Hang Jeff Davis. Why don’t you hang him? [Cries of “Give us the opportunity.”] Have not you got the court? Have not you got the Attorney General? [A voice, “Who is your Chief Justice?”] I am not the Chief Justice. I am not the prosecuting attorney. [Cheers.] I am not the jury. I will tell you what I did do. I called upon your Congress that is trying to break up the Government. [Cries, “You be d-d!” and cheers mingled with hisses. Great confusion “Don’t get mad, Andy!”] Well, I will tell you who is mad. “Whom the Gods wish to destroy, they first make mad.” Did your Congress order any of them to be tried? [Three cheers for Congress.] Then, fellow-citizens, we might as well allay our passions, and permit reason to resume her empire and preval. [Cheers.] In presenting the few remarks that I designed to make, my intention was to address myself to your common sense, your judgment, and your better feeling, not to the passion and malignity in your hearts. [Cheers.] This was my object in presenting myself on this occasion, and to tell you “How do you do,” and at the same time to bid you “Good-bye.” In this assembly here tonight the remark has been made, “Traitor! traitor!” My countrymen, will you hear me? [Shouts of “Yes.”] And will you hear me for my cause and for the Constitution of my country? [Applause.] I want to know when or where, or under what circumstances, Andrew Johnson, not as Chief Executive, but in any capacity, ever deserted any principle or violated the Constitution of his country. [Cries of “Never.”] Let me ask this large and intelligent audience if your Secretaries of State, who served four years under Mr. Lincoln, and who was placed upon the butcher’s block, as it were, and hacked to pieces and scarred by the assassin’s knife, when he turned traitor? [Cries of “Never.”] If I were disposed to play the orator and deal in declamation tonight, I would imitate one of the ancient tragedies, and would take William H. Seward, and bring him before you, and point you to the hallowed and sacred page upon his person. [A voice, “God bless him!”] I would exhibit the bloody garments, saturated with gore from his gushing wounds. Then I would ask you, Why not hang Thad. Stevens and Wendell Phillips? I tell you, my countrymen, I have been fighting the South, and they have been whipped and crushed, and they acknowledge their defeat and accept the terms of the Constitution; and now, as I go around the circle, having fought traitors at the South, I am prepared to fight traitors at the North. [Cheers.] God willing, with your help we will do it. [Cries of “We won’t!”] It will be crushed North and South, and this glorious Union of ours will be preserved. [Cheers.] I do not come here as the Chief Magistrate of twenty-five States out of thirty-six. [Cheers.] I came here to-night with the flag of my country and the Constitution of thirty-six States unshorn. Are you for dividing this country? [Cries of “No.”] Then I am President, and I am President of the whole United States. [Cheers.] I will tell you one other thing. I understand the discordant notes in this crowd to-night. He who is opposed to the restoration of this Government and the reunion of the States is as great a traitor as Jeff Davis or Wendell Phillips. [Loud cheers.] I am against both. [Cries of “Give it to them!”] Some of you talk about traitors in the South who have not courage to get away from your homes to fight them. [Laughter and cheers.] The courageous men, Grant, Sherman, Farragut, and the long list of the distinguished sons of the Union, were in the field and led on their gallant hosts to conquer and to victory, while you remained cowardly at home. [Applause, “Bully!”] Now, when these brave men have returned home, many of whom have left an arm, or a leg, or their blood, upon many a battle-field, they find you at home speculating and committing frauds on the Government. [Laughter and cheers.] You pretend now to have great respect and sympathy for the poor brave fellow who has left an arm on the battle-field. [Cries, “Is this dignified?”] I understand you, and you may talk about the dignity of the President. [Cries, “How was it about his making a speech on the 22d of February?”] I have been with you in the battles of this country, and I can tell you furthermore, to-night, who have to pay these brave men who shed their blood. You speculated, and now the great mass of the people have to work it out. [Cheers.] It is time that the great mass of the people should understand what your designs are. What did General Butler say? [Hisses.] What did General Grant say? [Cheers.] And what does General Grant say about General Butler? [Laughter and cheers.] What does General Sherman say? [A voice, “What does General Sheridan say?”] General Sheridan says that he is for the restoration of the Government that Sheridan fought for. [“Bully!” and renewed cries of “New Orleans,” and confusion.] I care not for dignity. There is a portion of your countrymen who will always respect their fellow-citizens when they are entitled to respect, and there is a portion of them who have no -
FELLOW-CITIZENS: In being introduced to you to-night, it is not for the purpose of making a speech. It is true I am not so much of a talker as some of my fellow-citizens here on this occasion, and under the favorable circumstances that I do. [Cries, "How about our British subjects?""] We will attend to John Bull after awhile, so far as that is concerned.

I have just stated that I am not here for the purpose of making a speech; but, after being introduced, I wish simply to tender my cordial thanks for the welcome that you have given to me in your midst. [A voice, "Ten thousand welcomes."] Thank you, sir! I wish it was in my power to address you under favorable circumstances upon some of the questions that agitate and distract the public mind at this time—questions that have grown out of the fiery ordeal that we have passed through, and which I think as important as that we have just passed by, though the time has come when it seems to me that all ought to be prepared for peace. The rebellion being suppressed, and the shedding of blood stopped, the sacrifice of life being suspended and stayed, it seems that the time has arrived when you should be at peace, when the bleeding ar-

spect for themselves, and consequently have no respect for others. [A voice, "Traitor!""] I wish I could see that man. I would bet you now, that if the light fell on your face, cowardice and treachery would be seen in it. Show yourself. Come out here where I can see you. [Shouts of laughter.] If you ever shoot a man you will do it in the dark, and pull the trigger when no one is by to see you. [Cheers.] I understand traitors. I have been finding them at the south end of the line, and we are now fighting them in the other direction. [Laughter and cheers.] I come here neither to criminate or recriminate, but where attack requires it, erect your altar and lay me upon it. If you ever shoot a man you will do it in the dark, and pull the trigger when no one is by to see you. [Cheers.] When encroached upon, I care not from what quarter it comes, it is entitled to resistance. As Chief Magistrate I felt so after taking the oath to support the Constitution, and when I saw encroachments upon your Constitution and rights, as an honest man I dared to sound the tocsin of alarm. [Three cheers for Andrew Johnson.] Then, if this be right, the head and front of my offending is in telling when the Constitution of your country has been trampled upon. Let me say to those who thirst for more blood, who are still willing to sacrifice human life, if you want a victory, and my country requires it, erect your altar and lay me upon it to give the last libation to human freedom. [Loud applause.] I love my country. Every public act of my life testifies that is so. Where is the man that can put his finger upon any one act of mine that goes to prove the contrary? And what is my offending? [A voice, "Because you are a radical," and cry of "Veto."] Somebody says veto. Veto of what? What is called the Freedmen's Bureau bill? I can tell you what it is. Before the rebellion commenced there were four millions of slave men, and about three hundred and forty thousand white people living in the South. These latter paid the expenses, bought the land and cultivated it, and after the crops were gathered pocketed the profits. That's the way the thing stood up to the rebellion. The rebellion commenced, the slaves were liberated, and then came up the Freedmen's Bureau bill. This provided for the appointment of agents and sub-agents in all States, counties, and school districts, who have power to make contracts for the freedmen, and hire them out, and to use the military power to carry them into execution. The cost of this to the people was $12,000,000 at the beginning. The further expense would be greater, and you are to be taxed for it. That's why I voted it. I might refer to the civil rights bill, the results of which are very similar. I tell you, my countrymen, that though the powers of hell and Thad Stevens and his gang were by, they could not turn me from my purpose. There is no power that could turn me except you and the God who spoke me into existence.

In conclusion, beside that, Congress had taken much pains to poison the minds of the American people. It was with them a question of power. Those who held an office—as assessor, collector, postmaster—wanted to retain their places. Rotation in office used to be thought a good doctrine by Washington, Jefferson, and Adams; and Andrew Jackson, God bless him! thought so. [Applause.] This gang of office-holders, these blood-suckers and corn-eaters, had got fat on the country. You have got them over your district. Hence you see a system of legislation proposed so that these men shall not be turned out; and to defend myself. When encroached upon, I care not from what quarter it comes, it is entitled to resistance. As Chief Magistrate I felt so after taking the oath to support the Constitution, and when I saw encroachments upon your Constitution and rights, as an honest man I dared to sound the tocsin of alarm. [Three cheers for Andrew Johnson.] Then, if this be right, the head and front of my offending is in telling when the Constitution of your country has been trampled upon. Let me say to those who thirst for more blood, who are still willing to sacrifice human life, if you want a victory, and my country requires it, erect your altar and lay me upon it to give the last libation to human freedom. [Loud applause.] I love my country. Every public act of my life testifies that is so. Where is the man that can put his finger upon any one act of mine that goes to prove the contrary? And what is my offending? [A voice, "Because you are a radical," and cry of "Veto."] Somebody says veto. Veto of what? What is called the Freedmen's Bureau bill? I can tell you what it is. Before the rebellion commenced there were four millions of slave men, and about three hundred and forty thousand white people living in the South. These latter paid the expenses, bought the land and cultivated it, and after the crops were gathered pocketed the profits. That's the way the thing stood up to the rebellion. The rebellion commenced, the slaves were liberated, and then came up the Freedmen's Bureau bill. This provided for the appointment of agents and sub-agents in all States, counties, and school districts, who have power to make contracts for the freedmen, and hire them out, and to use the military power to carry them into execution. The cost of this to the people was $12,000,000 at the beginning. The further expense would be greater, and you are to be taxed for it. That's why I voted it. I might refer to the civil rights bill, the results of which are very similar. I tell you, my countrymen, that though the powers of hell and Thad Stevens and his gang were by, they could not turn me from my purpose. There is no power that could turn me except you and the God who spoke me into existence.

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PRESIDENT JOHNSON'S SPEECHES.

So much was said for New Orleans, perhaps you would not be so prompt in calling out "New Orleans." If you will take up the riot at New Orleans, and trace it back to its source or its immediate cause, you will find out who was responsible for the blood that was shed there. If you will take up the riot at New Orleans and trace it back to the radical Congress, [cheers and cries of "Bully!" you will find that the riot at New Orleans was substantially planned. If you will take up the proceedings in their caucuses you will understand that they there knew [cheers] that a Convention was to be called, which was to be the people, who had just been emancipated, and at the same time disfranchise white men. When you design to talk about New Orleans [confusion] you ought to understand what you are talking about. When you read the speeches that were made, and take up the facts on the Friday and Saturday before that Convention sat, you will find that speeches were there made incendiary in their character, exciting that portion of the population, the black population, to arm themselves and prepare for the shedding of blood. [A voice, "That's so," and cheers.] You will also find that that Convention did assemble in violation of law, and the intention of that Convention was to supersede the reorganized authorities in the State government of Louisiana, which had been recognized by the Confederate authorities; and every man engaged in that rebellion in that Convention, with the intention of superseding and upturning the civil government which had been recognized by the Government of the United States, I say that he was a traitor to the Constitution of the United States, [cheers;] and hence you find that another rebellion was commenced, leaving its origin in the radical Congress. Those men were to go there, a government was to be organized, and the one in existence in Louisiana was to be superseded, set aside, and overthrown. You talk to me about New Orleans. And there the question was to come up, when they had established their government—a question of political powers—which of the two governments was to be recognized, a new government, inaugurated under this defunct Convention, set up in violation of law and without the will of the people. Then when they had established their government—a question of political powers—which of the two governments was to be recognized, a new government, inaugurated under the defunct Convention, set up in violation of law and without the will of the people, then this radical Congress was to determine that a government established on negro votes was to be the government of Louisiana. [Voices, "Never!" Cheers and cries of "Hurrah for Andy!"]

So much for the New Orleans riot. And there was the cause and the origin of the blood that was shed; and every drop of blood that was shed is upon their skirts, and they are responsible for it. I could test this thing a little closer, but I will not do it here to-night. But when you talk about the causes and consequences that resulted from proceedings of that kind, perhaps as I have been introduced here, and you have provoked questions of this kind, though it does not provoke me, I will tell you a few wholesome things that have been done by this radical Congress [cheers] in connection with New Orleans and the extension of the elective franchise.

I know that I have been traduced and abased. I know it has come in advance of me here as elsewhere—that I have attempted to exercise an arbitrary power in resisting laws that were intended to be forced upon the Government, [cheers;] that I had exercised that power, [cries, "Bully for you!"] that I had abandoned the party that elected me, and that I was a traitor, [cheers] because I exercised the veto power in attempting and did arrest for a time a bill that was called a "Freedmen's Bureau bill;" yes, that I was a traitor. And I have been traduced, I have been slandered, I have been maligned. I have been called Judas Iscariot and all that.

Now, my countrymen here to-night, it is very easy to indulge in epithets; it is easy to call a man Judas, and cry out traitor; but when he is called upon to give arguments and facts he is very often found wanting. Judas Iscariot—Judas. There was a Judas, and he was one of the twelve apostles. Oh! yes, the twelve apostles had a Christ. [A voice, "And a Moses, too!" laughter.] The twelve apostles had a Christ, and he never could have had a Judas unless he had had twelve apostles. If I have played the Judas, who has been my Christ that I have played the Judas with? Was it Thad. Stevens? Was it Wendell Phillips? Was it Charles Sumner? [Hisses and cheers.] These are the men that stop and confound themselves with the Saviour; and everybody that differs with them in opinion, and to try to stay and arrest their diabolical and nefarious policy, is to be denounced as a Judas. ["Hurrah for Andy!" and cheers.]

In the days when there was a Christ, while there was a Judas, were there unbelievers? Yes, while there were Judases there were unbelievers. [Voices heard, "Three groans for Fletcher."] Yes, oh yes; unbelievers in Christ, men who persecuted and slandered, and brought Him before Pontius Pilate, and preferred charges, and condemned and put Him to death on the cross to satisfy unbelievers; and this same persecuting, diabolical, and nefarious clan to-day would persecute and shed the blood of innocent men to carry out their purposes. [Cheers.]

But let me tell you; let me give you a few words here to-night. But a short time since I heard some one say in the crowd that we had a Moses. [Laughter.] Yes, there is a Moses; and I know sometimes it has been said that I have said that I would be the Moses of the colored man. [Gries of "Never!" and cheers.] Why, I have labored as much in the cause of emancipation as any other mortal man living; but, while I have striven to emancipate the colored man, I have felt and now feel that I have a great many white men that want emancipation. There
is a set amongst you that have got shackles on
their limbs, and are as much under the heel and
control of their masters as the colored man that
was emancipated.
I call upon you here to-night, as freemen, as
men, to favor the emancipation of the white
men as well as the colored ones. I have been
a favor of emancipation, I have nothing to
disguise about that. I have tried to do as much,
and have done as much—and when they talk
about Moses, and the colored man being led into
the promised land, what is the land? This is a
plan proposes to lead them into? When we
speak about taking them out among the
white population and sending them to other
countries, is it they propose? Why, it is to
give us a Freedmen's Bureau. And after giving
work heretofore. Their original owners bought
millions of slaves in the United States from their
original owners to a new set of taskmasters. 
set of taskmasters, to be worked with more
ten years to emancipate them; and then th
pretend to repeal the law, and at the same
time they found they could not go back to the
soldiers again in a moment. [Voice, "That's so."]
end of the session they found they could not go back to the
soldiers again in a moment. [Voice, "That's so."]
responded the military to this, saying that the
United States can do ten times as much as the
military. [Voice, "That's so."]
I am addressing myself to the breasts of the
people, and not to your passions; and when reason and argument again
resume their empire, this mist, this prejudice,
that has been incrusted upon the public mind,
must give way and reason become triumphant.
Now, my countrymen, let me call your attention to
a single fact, the Freedmen's Bureau. [Laugh-
ter and hisses.]
Slavery was an accursed institution until
emancipation took place. It was an accursed
institution while one set of men worked them
and got the profits. But after emancipation
took place they gave us the Freedmen's Bureau;
they gave us these agents to go into every county,
every township, and into every school district
throughout the United States, and especially the
southern states, to give the landowners;
they gave us $2,000,000, and placed the power
in the hands of the Executive, who was to work
this machinery, with the army brought to his
aid and to sustain it. They let us run it with
$12,000,000 as a beginning, and in the end receive
fifty or sixty millions, and let us work the four
millions of slaves. In five, the Freedmen's Bu-
reau was a simple proposition to transfer four
millions of the United States from one set of
original owners to a new set of taskmasters.
[A voice, "Never!" and cheers.] I have been
laboring for years to emancipate them; and then
I was opposed to sending them transferred to a
new set of taskmasters, to be worked with more
rigor than they had been worked heretofore.
[Cheers.] Yes, under this new system they
would work the slaves, and call on the Govern-
ment to bear all the expenses, and if there were
any profits left they would pocket them.
[Laughter and cheers.] Thus, you, the people,
must pay the expense of running the machine
out of your own pockets while they get the pro-
gains of it.
I simply intended to-night to tender you my
sincere thanks; but as I go on, as we are talk-
ing about this Congress, and these respectable
gentlemen who contend that the President is
wrong because he vetoed the Freedmen's Bureau
bill, and all this. [Voice, "Let them try it."] And if they were
satisfied they had the next Congress by a decided
majority, as this, upon some pretext or other—
violating the Constitution, neglect of duty, or
omitting to enforce some act of law—then some
pretext or other, they would vacate the execu-
tive department of the United States. [A voice,
"Too bad, they don't impeach him."] Now, as
we talk about this Congress, let me call the sol-
diers' attention to this immediate Congress.
Let me call your attention to—oh! yes; this
Congress that could make war upon the Execu-
tive because he stands upon the Constitution and
vindicates the rights of the people—executing the
veto power in their behalf. Because he dared to
do this they can clamor and talk about impeach-
ment; and by way of stimulating this increasing
confidence with the soldiers throughout the
country, they talk about impeachments. So far
as offenses are concerned, upon this subject of
offenses let me ask you [voice, "Plenty here to-
hill!"] to go back into my history of legisla-
tion, and even when Governor of a State. Let
me ask if there is a man here to-night who in
the dark days of Know-Nothingism stood and
battled more for their rights. [Voice, "Good,
and cheers.] It has been my peculiar misfortune to have
fierce opposition because I have always struck
my blows direct, and fought with right and the
Constitution on my side. [Cheers.] Yes, I will
come back to the soldiers again in a moment.
Yes; here was a neutrality law. I was sworn, in
support of the Constitution, to see that the law
was faithfully executed. ["Why didn't you do
it?"] The law was executed; and because it was
executed, then they raised
abuses because I have always struck
my blows direct, and fought with right and the
Constitution on my side. [Cheers.] Yes, I will
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was faithfully executed. ["Why didn't you do
it?"] The law was executed; and because it was
executed, then they raised a clamor, and tried to
make an appeal to the followers, and especially
the soldiers. And what did they do? They in-
troduced a bill to tackle and play with the fancy,
pretending to repeal the law, and at the same
time making it worse, and then left the law just
where it is. [Voice, "That's so."]
They knew that whenever a law was presented
to me, proper in its provisions, ameliorating and
softening the rigors of the present law, it would
meet my hearty approbation; but as the execu-
tion pretty well broken down and losing public con-
fidence, at the heel of the session they found they
must do something; and hence, what did they do?
They pretended to do something for the soldiers.
Who has done more for the soldiers than I have?
Who has perilled more in this struggle than I
have? [Cheers.] But then, to make them their
peculiar friends and favorites of the soldiers, they
come forward with a proposition to do what? Why we will give the soldier $50 bounty—your attention to this—if he has served two years, and $100 if he has served three years. Now, mark you, the colored man that served two years can get his $100 bounty, but the white man must serve three years before he can get his. [Cheers.] But that is not the point. While they were tickling and attempting to please the soldiers, by giving them $300 for two years' service, they took it into their heads to give somebody else about [laughter], and they voted themselves not fifty dollars, two years' pressed in the field, that everything that could impressed and maimed, he can get fifty dollars bounty, be done has been done by the executive depart- if he has served two years; but the members of ment of the Government for the restoration of Congress, who never smelt gunpowder, can get $4,000 extra pay. [Great cheering.] This is a $100 extra pay. [Great cheering.] This is a faint picture, my countrymen, of what has trans- faint picture, my countrymen, of what has trans- pressed in the field, that everything that could pressed in the field, that everything that could be done has been done by the executive depart- done has been done by the executive depart- ment of the Government for the restoration of ment of the Government for the restoration of the Government; everything has been done with the the Government; everything has been done with the exception, and that is the ad- exception, and that is the admission of members from eleven States that went mision of members from eleven States that went into the rebellion; and after having accepted into the rebellion; and after having accepted the terms of the Government—having abolished the terms of the Government—having abolished slavery, having repudiated their debt and sent loyal slavery, having repudiated their debt and sent loyal representatives—everything has been done excepting the admission of representatives, to representatives—everything has been done excepting the admission of representatives, to which all the States are entitled. [Cheers.] which all the States are entitled. [Cheers.] When you turn and examine the Constitution of the United States, you find that you cannot When you turn and examine the Constitution of the United States, you find that you cannot even amend that Constitution so as to deprive any State of its equal suffrage in the Senate. even amend that Constitution so as to deprive any State of its equal suffrage in the Senate. [A voice, "That's never been out."] It is [A voice, "That's never been out."] It is said before me they have never been out. I say too. That is what I have always said. They said before me they have never been out. I say too. That is what I have always said. They have never been out, and they cannot go out. [Cheers.] That being the fact, under the Constitu- have never been out, and they cannot go out. [Cheers.] That being the fact, under the Constitution they are entitled to equal representa- Constitution they are entitled to equal representa- tion in the Congress of the United States with- tion in the Congress of the United States with- out violating the Constitution. [Cheers.] and out violating the Constitution. [Cheers.] and the same argument applies to the House of Rep- the same argument applies to the House of Rep- resentatives. resentatives.

How, then, does the matter stand? It used to be one of the arguments, that if the States with-drew boys, the patriotic young men who followed his gallant officers, slept in the tented How, then, does the matter stand? It used to be one of the arguments, that if the States with- withdrawal; a peaceable breaking up of the withdrawal; a peaceable breaking up of the Government. Now the radical power in this Government turn round and assume that the States are out of the Union, that they are not entitled to representation in Congress. [Cheers.] withdrawal; a peaceable breaking up of the Government. Now the radical power in this Government turn round and assume that the States are out of the Union, that they are not entitled to representation in Congress. [Cheers.] That is to say, they are dissolutionists, and their position now is to perpetrate a disruption of the Government; and, too, while they are denying the States the right of representation, they impose taxation upon them, a principle upon which, in the Revolution, you resisted the power of Great Britain. We deny the right of taxation without representation; that is one of our Great Britain. We deny the right of taxation without representation; that is one of our great principles.

Let the Government be restored; let peace be Let the Government be restored; let peace be restored among these people. I have labored for restored among these people. I have labored for it; I am for it now. I deny this and, crime of it; I am for it now. I deny this and, crime of secession, come from what quarter it may, secession, come from what quarter it may, whether from the North or from the South. I whether from the North or from the South. I am opposed to it, and am for the union of the States. am opposed to it, and am for the union of the States. [Voices, "That's right," and cheers.] I am for the thirty-six States, representing thirty-six States, representing thirty-six States, remaining where they are under the States, remaining where they are under the Constitution as your fathers made it and handed Constitution as your fathers made it and handed it down to you; and if it is altered or amended, it down to you; and if it is altered or amended, let it be done in the mode and manner pointed let it be done in the mode and manner pointed out by that instrument itself, and in no other. out by that instrument itself, and in no other. [Cheers.] I am for the restoration of peace. Let [Cheers.] I am for the restoration of peace. Let me ask the people here to-night if we have not me ask the people here to-night if we have not shed enough of blood. Let me ask, Are you shed enough of blood. Let me ask, Are you prepared to go into another civil war? Let prepared to go into another civil war? Let me ask this people here to-night, Are they me ask this people here to-night, Are they prepared to set man upon man, and in the name prepared to set man upon man, and in the name of God lift his hand against the throat of his of God lift his hand against the throat of his fellow? [Voice, "Never!"] Are you prepared fellow? [Voice, "Never!"] Are you prepared to see our fields laid waste again, our to see our fields laid waste again, our business and our commerce suspended, and our trade business and our commerce suspended, and our trade stopped? Are you prepared to see this land stopped? Are you prepared to see this land again drenched in our brothers' blood? Heaven again drenched in our brothers' blood? Heaven avert it! is my prayer. [Cheers.] I am one of avert it! is my prayer. [Cheers.] I am one of those who believe that man does sin, and having those who believe that man does sin, and having sinned, I believe he must repent, and, some- sinned, I believe he must repent, and, some- times, having repented makes him a better man times, having repented makes him a better man than he was before. [Cheers.]

I know it has been said that I have exercised I know it has been said that I have exercised my pardoning power. Yes, I have. [Cheers and "What about Drake's constitution?"] Yes my pardoning power. Yes, I have. [Cheers and "What about Drake's constitution?"] Yes I have; and don't you think it is to prevail? I I have; and don't you think it is to prevail? I reckon I have pardoned more men, turned more reckon I have pardoned more men, turned more men loose, and set them at liberty that were imprisoned, men loose, and set them at liberty that were imprisoned, I imagine, than any other living man I imagine, than any other living man on God's habitable globe. [Voice, "Bully for you! on God's habitable globe. [Voice, "Bully for you!] I turned forty-seven thousand on God's habitable globe. [Voice, "Bully for you!] I turned forty-seven thousand of our men loose who engaged in this struggle, of our men loose who engaged in this struggle, with the arms we captured with them, and who with the arms we captured with them, and who were then in prison. I turned them loose. [Voice, were then in prison. I turned them loose. [Voice, "Bully for you!" and laughter.] Large num- "Bully for you!" and laughter.] Large number bers have applied for pardon, and I have granted bers have applied for pardon, and I have granted them pardon; yet there are some who condemn, them pardon; yet there are some who condemn, and hold me responsible for doing wrong. Yes, and hold me responsible for doing wrong. Yes, there are some who stand at home, who did not there are some who stand at home, who did not go into the field, that can talk about blood and go into the field, that can talk about blood and vengeance, and crime and everything to make vengeance, and crime and everything to make treason odious, and all that, who never smelt gunpowder on treason odious, and all that, who never smelt gunpowder on either side. [Cheers.] Yes, they can condemn either side. [Cheers.] Yes, they can condemn others, and recommend hanging and torture, and others, and recommend hanging and torture, and all that. If I have erred, I have erred on the all that. If I have erred, I have erred on the side of mercy. Some of these croakers have side of mercy. Some of these croakers have dared to assume they are better than was the dared to assume they are better than was the Saviour of men himself—a kind of over-righteous Saviour of men himself—a kind of over-righteous —better than anybody else; and, although wanting —better than anybody else; and, although wanting to do Deity's work, thinking He cannot do it to do Deity's work, thinking He cannot do it as well as they can. [Laughter and cheers.] Yes, as well as they can. [Laughter and cheers.] Yes, the Saviour of men came on earth and the Saviour of men came on earth and found the human race condemned and sentenced found the human race condemned and sentenced under the law; but when they repented and believed, under the law; but when they repented and believed, He said Let them live. Instead of executing and He said Let them live. Instead of executing and putting the whole world to death, He putting the whole world to death, He went upon the cross, and there was nailed by
unbelievers, there shed his blood that you might live. [Cheers.] Think of it; to execute and hang put to death eight millions of people. Never! It is an absurdity. Such a thing is impracticable, even if it were right; but it is the violation of all law, human and divine. [Voice, "Hang Jeff Davis. You call on Judge Chase to hang Jeff Davis, will you?" Great cheering.] I am not the court, I am not the jury, nor the judge. Before the case comes to me, and all other cases, it would have to come on application as a case for pardon. That is the only way the case can get to me. Why don't Judge Cham, to hang Jeff Daviti, will you?" Great cheering.

I am not the court, I am not the jury, nor the judge. Before the case comes to me, and all other cases, it would have to come on application as a case for pardon. That is the only way the case can get to me. Why don't Judge Cham, to hang Jeff Daviti, will you?" Great cheering.

At one end of the line is as bad as a traitor at the other. I know that there are some who have got up their little pieces and sayings to repeat on public occasions—talking parrots that have been placed in their mouths by their superiors—who have not the courage and the manhood to come forward and tell them themselves, but have their understrappers to do their work for them. [Cheers.] I know there are some who talk about this universal elective franchise, upon which they wanted to upturn the Government of Louisiana and institute another, who contended that we must send men there to control, govern, and manage their slave population because they are incompetent to do it themselves. And yet they turn round, when they get there, and say they are competent to go to Congress and manage all the affairs of State. [Cheers.] Before you commence throwing your stones you ought to be sure you don't live in a glass house. Then why all this clamor? Don't you see, my countrymen, if it is true that theExecutive has too much power, and being in power, as they are, their object is to perpetuate their power, since, when you talk about turning any of them out of office, oh, they talk about bread and butter. [Laughter.] Yes, those men are the most perfect and complete bread and butter party that has ever appeared in this Government. [Great cheering.] When you make an effort or struggle to take the hippo out of their mouths, how they clamor. They have stayed at home here five or six years, hold the offices, grown fat, and enjoyed all the emoluments of position; and now, when you talk about turning one of them out, oh, it is proscription; and hence they come forward and propose, in Congress, to do what? To pass laws to prevent the Executive from turning anybody out. [Voice, "Put 'em out."] Hence, don't you see what the policy was to be? I believe in the good old doctrine—advocated by Washington, Jefferson, and Madison—of rotation in office. These people who have been enjoying these offices seem to have lost sight of this doctrine. I believe that one set of men have enjoyed the emoluments of office long enough. They should let another portion of the people have a chance.

[Cheers.] How are these men to be got out—[Voice, "Kick 'em out!""] Cheers and laughter.]—unless your Executive can put them out, unless you can teach them through the President? Congress says he shall not turn them out, and they are trying to pass laws to prevent it being done. Well, let me say to you, if you will stand by me in this action, (cheers,) if you will stand by me in trying to give the people a fair chance—soldiers and citizens—to participate in these offices, God being willing, I will kick them out. I will kick them out just as fast as I can. Let me say to you, in concluding, that what I have said I intended to say. I was provoked into this, and I care not for their menaces, the taunts and the jeers. I care not for threats. I do not intend to be bullied by my enemies nor overawed by my friends. But, God willing, with your help, I will veto their measures whenever any of them come to me.

Then why all this clamor? Don't you see, my countrymen, it is a question of power; and being in power, as they are, their object is to perpetuate that power. [Cheers.] How are these men to be got out—[Voice, "Put 'em out."] Hence, don't you see, or ears to hear, or a tongue to sound the alarm, so help me God, I will do it, and call on the people to be my judges. [Cheers.] I tell you here to-night that the Constitution of this country is being encroached upon. I tell you here to-night that the God-given, God-given liberty is being endangered. [A voice, "Go it, Andy!"] Say to them, "Go to work; take the Constitution as your palladium of civil and religious liberty; take it as your chief ark of safety." Just let me ask you here to-night to cling to the Constitution, in this great struggle for freedom and for its preservation, as the shipwrecked mariner clings to the mast when the midnight tempest closes around him.

So far as my humble life has been advanced, the people of Missouri, as well as other States, know that all my efforts have been devoted in that direction. Why, where is the speech, where is the vote to be got of mine but which has always had a tendency to elevate the great working classes of this people? When they talk about tyranny and despotism, where is one act of Andy Johnson's that ever encroached upon the rights of a freeman in this land? But because I have stood, as a faithful sentinel, upon the watch-tower of freedom, to sound the alarm, hence all this traducing and detraction that has been heaped upon me. [Cries of "Bully for Andy Johnson!"] I now, in conclusion, my countrymen, hand over to you the flag of your country with thirty-six stars upon it. I hand over to you your Constitution, with the charge and responsibility of preserving it intact. I hand over to you the Union of these States, the great magic circle which embraces them all. I hand them over to you, the people, in whom I have always trusted for the preservation of the Union of these States, the great magic circle which embraces them all. I hand them over to you, men who can rise above party, who can stand around the altar of a common country with their faces uplifted to heaven, swearing by Him who lives forever and ever, that the altar and all shall sink in the dust, but that the Constitution of the Union shall be preserved.

Let us stand by the Union of these States; let us fight the enemies of the Government, come from what quarter they may. My stand has been taken. You understand what my position is. And parting with you now, I leave the Government in your hands, with the confidence I
have always had, that the people will ultimately redress all wrongs and set the Government right. Then, gentlemen, in conclusion, for the cordial welcome you have shown me in this great city of the South, whose destiny none can foresee, now, in bidding you good night, I leave all in your charge and thank you for the cordial welcome you have given in this spontaneous outpouring of the people of your city.

Interview with Chas. G. Halpine, March 5, 1867.

And now, apart from the directly political, [censored] the main issue coming up in the immediate future? What issue is clearly foreshadowed to be the Aaron’s rod of all aristocracies, that of mere wealth? It is now compelled to go for its portion of its substance; and with the vast machinery under its control, the money is fetched.

There were four millions of slaves in the southern States before the rebellion, representing a capital of three, or possibly four billions of dollars; but let us call it three billions, or three thousand millions, as you may please. These slaves property, men put their savings into purchasing or raising them, and they represented as property whatever were the surplus profit of their labor, after due allowance for food, clothing, medicine, and interest on the capital invested.

On this property in slaves gradually grew up that slave oligarchy or aristocracy, against which the leaders of the anti-slavery party so successfully thundered during the twelve years preceding the rebellion; and after the first mad plunge into rebellion, the fate of that aristocracy was sealed. It is now a thing of the past. With its virtues—for it had virtues, courage, and hospitality eminently—and with its crimes of pride and lawless revolution, it has entered into history, and is a thing of the past.

But what do we find? The aristocracy based on $3,000,000,000 of property in slaves south of Mason and Dixon’s line has disappeared; but an aristocracy based on over $2,500,000,000 of national securities, has arisen in the northern States, to assume that political control which the consolidation of great financial with political interests formerly gave to the slave oligarchy of the late rebel States. The aristocracy based on negro property disappears at the southern end of the line, but only to reappear in an oligarchy of bonds and national securities in the States which suppressed the rebellion.

We have all read history, and it is not certain that all aristocracies, that of mere wealth is the most odious, rapacious, and tyrannical? It goes for the poor and helpless have got; and with such vast machines as this Government under its control, that dollar will be fetched. It is an aristocracy that can see in the people only a prey for extortion. It has no political or military relations with them, such as the old feudal system created between lord and vassal; it has no intimate social and domestic ties, and no such strong bond of self-interest with the people as existed of necessity between the extinct slaveholders of our country and their slaves. To an aristocracy existing on the annual interest of a national debt, the people are only of value in proportion to their docility and power of patiently bleeding golden blood under the tax-gatherer’s thumb-screw.

To the people the national debt is a thing of debt to be paid; but to the aristocracy of bonds and national securities it is a property of more than $2,500,000,000, from which a revenue of $180,000,000 a year is to be received into their pockets. So we now find that an aristocracy of the South, based on $3,000,000,000 in negroes, who were a productive class, has disappeared, and their place in political control of the country is assumed by an aristocracy based on nearly $3,000,000,000 of national debt—a thing which is not producing anything, but which goes on steadily every year, and must go on for all time until the debt is paid, absorbing and taxing at the rate of six or seven percent a year for every $100 bond that is represented in its aggregation.

Now, I am not speaking of this to do anything but deprecate the fearful issue which the madness of partisan hatred and the blindness of our new national-debt aristocracy to their own true interests is fast forcing upon the country. But is it not clear that the people, who have to pay the interest on over $180,000,000 a year to this consolidated moneyed oligarchy, must, sooner or later, commence asking each other “How much was actually loaned to our Government during the civil war by these bondholders, who now claim that we owe them nearly $3,000,000,000?” You know what the popular answer must be—I do not say the right answer—“Less than half the amount they claim, for gold ranged at an average of one hundred premium while this debt was being incurred.”

Just think of the annual tax of $180,000,000 for payment of interest on our national debt! This Government we have, with its enormous machinery, is a pretty hefty business in itself, costing more per capita to the people than the Government of England, which we always knew before regarded as the most tax-devouring on earth. But over and beyond the expenses of the Government proper, as it should stand in the scale of peace at about $20,000,000 a year, we have, in the $180,000,000 of interest paid yearly on our national debt, enough to support three such Governments as this, with all their vast machinery and disbursements! We have not only, under the present system, one Government for the people to support, but, over and beyond this, we have to raise by taxation from the people sufficient to support three similar establishments every year!

All property is based upon and can only be sustained by law; and it is for a return to law and the guide of fixed constitutional principles that my whole course has been contending. But so short-sighted is this aristocracy of bonds and paper currency, this plutocracy of the national debt, that my efforts in behalf of their true interests (which are certainly involved in the maintenance of law and the Constitution) have been everywhere encountered, and almost everywhere
Overwhelmed, by the preponderating influence which they have acquired from the natural force of capital and the agency of our national banks. And what has been the course of that Congress which has just ended, and which this blind aristocracy of the national debt sustained in overriding my efforts for a return to sound principles of internal government? Look at the bill giving from $150,000,000 to $200,000,000, nominally for back bounty, or as an equalization of bounties to the soldiers, but really, as all intelligent men must be aware, to be parcelled out as a prey among the bounties of the lately revolted States to help us in bearing our heavy burdens, which should properly be left to the laws governing private industry and the progress of our national development. Look also at the increase of all salaries with a prodigal hand, this virtuous Congress first setting an example against reimbursement by voting to themselves an increase of salaries. Everywhere, and in an ever-increasing ratio, the motto seems to be, “Always spend and never spare,” a fresh issue from the paper-mill over yonder [slightly pointing his pencil to the Treasury Department] being the panacea prescribed for every evil of our present situation. Every effort to increase our annual taxation is resisted, for increased taxes might help to awaken the people from their false dream of prosperity under the sway of revolutionary and radical ideas; but no addition to the national debt can be proposed, no further inflation of our inflated currency, which the preponderating votes of the western States will not be certain to favor. The war of finance is the next war we have to fight; and every blow struck against my efforts to uphold a strict construction of the laws and Constitution is in reality a blow in favor of repudiating the national debt. The manufacturers and men of capital in the eastern States and the States along the Atlantic seaboard—a mere strip or fringe on the broad mantle of our country, if you will examine the map—these are in favor of high protective, and, in fact, prohibitory tariffs, and also favor a contraction of the currency. But against both measures the interests and votes of the great producing and manufacturing States of the West stand irrevocably arrayed, and a glance at the map and the census statistics of the last twenty years will tell every one who is open to conviction how that war must end.

The history of the world gives no example of a war debt that has ever been paid; but we have an exceptional counter-example, which present an exceptional case. Our debt might easily be paid, provided the brakes against excessive expenditures could be turned on quickly enough; but now is the appointed time, and now or never the work must be commenced. If that debt is ever to be paid we need economy in every branch of the public service—the reduction, not an increase of salaries to Congressmen and other officials; the systematic, national Union bond; and not its increase by such monstrous bills as this last demagogic measure for the pretended equalization of bounties. The Congress, forsooth, is so patriotic, so loyal, that it “can refuse our gallant soldiers nothing.” But you must have seen how promptly it rejected the names of nearly every gallant veteran sent in by me for confirmation to any civil office, a majority of them extremely “loyal Senators” using their guillotine without remorse in nearly every instance.

And whether is all this drifting? To intelligent men there can be but one answer. We are drifting towards repudiation, and the moneyed aristocracy of the national debt, the very men whose interests are most jeopardized, are so blind that they are practically helping to accelerate, not check our course in this downward direction. We need the industry and enormous possible proceeds of the lately revolted States to help us in bearing our heavy burdens, which should properly be left to the laws governing private industry and the progress of our national development. Then the census statistics of the last twenty years will openly hoist the banner of repudiation, and not its general effect as a high-handed measure of congressional usurpation, striking out of existence so many States, and establishing a military despotism over more than one-third of our geographical Union. This bill suddenly adds four millions of ignorant and penniless negroes to the voting force of the country, an accession of just so much strength to the
PRESIDENT JOHNSON'S MESSAGES.

The Annual Message, December 4, 1866.

The following portions relate to reconstruction, and kindred subjects:

Fellow-citizens of the Senate and House of Representatives:

After a brief interval the Congress of the United States resumes its annual legislative labors. An all-wise and merciful Providence has abated the pestilence which visited our shores, leaving its calamitous traces upon some portions of our country. Peace, order, tranquillity, and civil authority have been formally declared to exist throughout the whole of the United States. In all of the States citizen property has extinguished the coercion of arms, and the people, by their voluntary action, are maintaining their governments in full activity and complete operation. The enforcement of the laws is no longer obstructed by any State combinations too powerful to be suppressed by the ordinary course of judicial proceedings; and the animosities engendered by the war are rapidly yielding to the beneficent influences of our free institutions, and to the kindly effects of unrestricted social and commercial intercourse. An entire restoration of fraternal feeling must be the earnest wish of every patriotic heart; and we will have accomplished our grandest national achievement when, forgetting the sad events of the past, and remembering only their instructive lessons, we resume our onward career as a free, prosperous, and united people.

Public credit must be looked for in a system of rigidly exacted obedience to all constitutional restraints, and a thorough system of economy in all branches of the public service.

For the slights and indignities, the unconstitutional curtailments and dishonors which the recent Congress has attempted to cast upon me for my unflinching and unalterable devotion to my constitutional oath, and to the best interests of the whole country, according to my best judgment and experience, I am only sorry as regards the indignities sought to be imposed on my high office, but unmoved as regards myself. Conscious of only having executed my duty, conscious of being denounced for usurpation only because refusing to accept unconstitutional powers and patronage, and satisfied that the day of wiser thought and sounder estimate cannot now be far distant, I look with perfect confidence for my vindication to the justice of that future which I am convinced cannot long be delayed. Unless all the senses are deceptive, unless all truth be a lie, unless God has ceased to live, I tell you that the folly and fraud now dominating the councils of this distracted country in Congress cannot endure forever.

It is, perhaps, but right to add that the foregoing is a report from memory of remarks made by Mr. Johnson in an extended conversation yesterday afternoon, and that the original did not take the form of a set speech, here unavoidably given to it. It should also be added that a few points embraced in the report, and attributed exclusively to the President, may have been, more or less, suggested by interjectional remarks of the person to whom he was speaking; but nothing has been here set down to which the full assent of Mr. Johnson was not given, always provided, of course, that his listener understood him, and remembers correctly.
In my message of the 4th of December, 1865, Congress was informed of the measures which had been instituted by the Executive with a view to the gradual restoration of the States in which the insurrection occurred to their relations with the General Government. Provisional Governors had been appointed, conventions called, conventions selected, legislatures assembled, and Senators and Representatives chosen to the Congress of the United States; and the powers had been opened for the enforcement of laws long in abeyance. The blockade had been removed, customs houses re-established, and the internal revenue laws put in force, in order that the people might contribute to the national income. Postal operations had been renewed, and efforts were being made to restore them to their former condition of efficiency. The States themselves had been asked to hold elections, returns, and qualifications of their own members; and the consideration of these objects engaged the attention of Congress. The legislative department of the United States was thrown into a condition of efficiency. The States themselves had been asked to hold elections, returns, and qualifications of their own members; and the consideration of these objects engaged the attention of Congress. The legislative department of the United States was thrown into a condition of efficiency.

In the mean time, the executive department—no other plan having been proposed by Congress—continued its efforts to perfect, as far as was practicable, the restoration of the proper relations between the citizens of the respective States, the States, and the Federal Government, extending, from time to time, as the public interests seemed to require, the judicial, revenue, and postal systems of the country. With the advice and consent of the Senate, the necessary officers were appointed, and appropriations made by Congress for the payment of their salaries. The proposition to amend the Federal Constitution so as to prevent the existence of slavery within the United States was put into the hands of a convention, and the result, as the States were to be regarded merely as conquered territories. The legislative, executive, and judicial departments of the Government have, however, with great distinctness and uniformity, been preserved, and the remedy for the suppression of the war. Throughout the recent legislation of Congress, the undeniable fact makes itself apparent, that these ten political communities are nothing less than States of this Union. At the commencement of the rebellion each State declared, with a manifesto remarkable as it was significant, that the war was not waged upon our part, in any spirit of opposition, nor for any purpose of conquering or subjugating, nor of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects were accomplished the war ought to cease. In some instances Senators were permitted to continue their legislative duties, and while in other instances Representatives were elected and admitted to seats after their States had formally declared their right to withdraw from the Union, and were permitted to maintain that right by force of arms. All of the States whose people were in insurrection, as States, were included in the apportionment of
the direct tax of $20,000,000 annually, laid upon the United States by the act approved 6th August, 1861. Congress, by the act of March 4, 1862, and by the appointment of representation thereunder, also recognized their presence as States in the Union; and they have, for judicial purposes, been divided into districts, as States alone can be divided. The same recognition appears in the recent legislation in reference to Tennessee, which evidently rests upon the fact that the functions of the State were not destroyed by the rebellion, but merely suspended; and that principle is of course applicable to those States which, like Tennessee, attempted to renounce their place in the Union.

The action of the executive department of the Government upon this subject has been equally definite and uniform, and the purpose of the war was specifically stated in the proclamation issued by me, the 16th of December, 1861. It was then solemnly proclaimed and declared that "hereafter, as heretofore, the war will be prosecuted for the object of practically restoring, on the constitutional relation between the United States and each of the States and the people thereof, in which States that relation is or may be suspended or disturbed."

The recognition of the States by the judicial department of the Government has also been clear and conclusive in all proceedings affecting them as States, had in the Supreme, Circuit, and District Courts.

In the admission of Senators and Representatives from any and all of the States, there can be no just ground of apprehension that persons who are disloyal will be clothed with the powers of legislation; for this could not happen when the Constitution and the laws are enforced by a vigilant and faithful Congress. Each House is made the "judge of the elections, returns, and qualifications of its own members," and may, with the concurrence of two-thirds, expel a member. When a Senator or Representative presents his certificate of election, he may at once be admitted or rejected; or, should there be any question as to his eligibility, his credentials may be referred for investigation to the appropriate committee. If admitted to a seat, it cannot be unconstitutionally withheld by the House of which he thus becomes a member, that he possesses the requisite constitutional and legal qualifications. If refused admission as a member, for want of due allegiance to the Government, and returned to his constituents, they are advised of his change of place in the Union and the permanency of our present form of government, my convictions, here before expressed, have undergone no change; but have, on the contrary, been confirmed by reflection and time. If the admission of loyal members to seats in the respective Houses of Congress was wise and expedient a year ago, it is now, and must be now. If this anomalous condition is right now—if, in the exact condition of these States at the present time, it is lawful to exclude them from representation, I do not see that the question will be changed by the efflux of time. Ten years hence, if these States remain as they are, the right of representation will be no stronger, the right of exclusion will be no weaker.

The Constitution of the United States makes it the duty of the President to recommend to the consideration of Congress "such measures as he shall judge necessary or expedient." I know of no measure more imperatively demanded by every consideration of national interest, sound policy, and equal justice, than the admission of loyal members from the now unrepresented States. This would consummate the work of restoration, and exert a most salutary influence in the re-establishment of peace, harmony, and fraternal feeling. It would tend greatly to renew the confidence of the American people in the vigor and stability of their institutions. It would bind us more closely together as a nation, and enable us to show to the world the inherent and recuperative power of a Government founded upon the will of the people, and established upon the principles of liberty, justice, and intelligence. Our increased strength and enhanced prosperity would irrefragably demonstrate the falsity of the arguments against free institutions drawn from our recent national disorders by the enemies of republican government. The admission of loyal members from the States now excluded from Congress, by allaying doubt and apprehension, would turn capital, awaiting opportunity for investment, into the channels of trade and industry. It would alleviate the present troubled condition of those States, and, by inducing emigration, aid in the settlement of fertile regions now uncultivated, and lead to an increased production of those staples which have added so greatly to the wealth of the nation and the commerce of the world. New fields of enterprise would be opened to our progressive people, and soon the devastations of war would be repaired, and all traces of our domestic disturbances effaced from the minds of our countrymen.

In our efforts to preserve "the unity of government," which constitutes us one people, by restoring the States to the condition which they held prior to the rebellion, we should be cautious, lest, having rescued our nation from perils of threatened disintegration, we resort to consolidation, and in the end absolute despotism, as a remedy for the recurrence of similar troubles. The war having terminated, and with it all occasion for the exercise of powers of doubtful constitutionality, we should hasten to bring legislation within the boundaries prescribed by the Constitution, and to return to the ancient landmarks established by our fathers for the guidance of succeeding generations. "The Constitution which, at any time exists, until changed by explicit and authentic act of the whole people, is sacrosanct and inviolable; for it is the customary weapon by which free Governments are destroyed." Washington spoke these words to his countrymen when, followed by
their love and gratitude, he voluntarily retired from the cares of public life. "To keep in all things within the pale of our constitutional powers, and cherish the Federal Union as the true principle of their Constitution, and promote a union of sentiment and action equally necessary for the peace and safety." Jackson held that the action of the General Government should always be strictly confined to the sphere of its appropriate duties, and justly and forcibly urged that our Government is not to be maintained nor our Union preserved by invasions of the rights and powers of the several States. In thus attempting to make our General Government strong, we make it weak. Its true strength lies in its being united to the States as much as possible to themselves; in making itself, not in its power, but in its benevolence; not in its control, but in its pro-tection; not in binding the States more closely to the centre, but leaving each to move unobstructed in its proper constitutional orbit." These are the teachings of men whose deeds and services have made them illustrious, and who, long since withdrawn from the scenes of life, have left to their country the rich legacy of their example, their wisdom, and their patriotism. Drawing fresh inspiration from their lessons, let us emulate in love of country and respect for the Constitution and the laws.

The report of the Secretary of the Treasury affords much information respecting the revenue and commerce of the country. His views upon the currency, and with reference to a proper adjustment of our revenue system, internal as well as import, are commended to the careful consideration of Congress. In my last annual message I expressed my general views upon these subjects. *

The report presents a much more satisfactory condition of our finances than one year ago the most sanguine could have anticipated. During the fiscal year ending the 30th June, 1865, the last year of the war, the public debt was increased $419,902,537, and on the 31st of October, 1865, it amounted to $2,740,854,750. On the 31st day of October, 1866, it had been increased $141,902,537, and on the 31st day of November last, to $2,882,757,287. During that period, however, it was reduced $31,196,387, the receipts of the year having been $89,905,905, and the expenditures $520,750,940, leaving an available surplus of $158,039,080. It is estimated that the receipts for the fiscal year ending the 30th June 1867, will be $473,061,386 and that the expenditures will reach the sum of $316,435,078, leaving in the Treasury a surplus of $158,039,080. For the fiscal year ending June 30, 1868, it is estimated that the time of withdrawals shall have been made, the revenue of the present and of following years will double to be sufficient to cover all legitimate charges upon the Treasury, and leave a large annual surplus to be applied to the payment of the principal of the debt. There seems now to be no good reason why taxes may not be reduced as the country advances in population and wealth, and yet the debt be extinguished within the next quarter of a century.* In the month of April last, as Congress is aware, a friendly arrangement was made between the Emperor of France and the President of the United States for the withdrawal of the Emperor's three detachments, the first of which, it was understood, would leave Mexico in November, now past, the second in March, and the third and last in November, 1867. Immediately upon the completion of the evacuation, the French Government was to assume the same attitude of non-intervention, in regard to Mexico, as is held by the Government of the United States. Repeated assurances have been given by the Emperor, since that agreement, that he would complete the promised evacuation within the period mentioned, or sooner.

It was reasonably expected that the proceedings thus contemplated would produce a crisis of great political interest in the Republic of Mexico. The newly appointed Minister of the United States, Mr. Campbell, was therefore sent forward, on the 9th day of November last, to assume his proper functions as Minister Plenipotentiary of the United States to that Republic. It was also thought expedient that he should be attended in the vicinity of Mexico by the Lieu-tenant General of the Army of the United States, with the view of obtaining such information as might be important to determine the course to be pursued by the United States in re-establishing and maintaining necessary and proper intercourse with the Republic of Mexico. Dealing deeply interested in the cause of liberty and humanity, it seemed an obvious duty on our part to exercise whatever influence we possessed for the restoration and permanent establishment of that country of a domestic and republican form of government.

Such was the condition of affairs in regard to Mexico, when, on the 22d of November last, official information was received from Paris that the Emperor of France had some time before decided not to withdraw a detachment of his forces in the month of November past, according to engagement, but that this decision was made with the purpose of withdrawing the whole of those forces in the ensuing spring. Of this determination, however, the United States did not receive any
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notice or intimation; and, so soon as the infor-
mation was received by the Government, care
was taken to make known its dissent to the
Emperor of France.

I cannot forego the hope that France will re-
consider the subject, and adopt some resolution
in regard to the evacuation of Mexico which will
conform as nearly as practicable with the exist-
ing engagement, and thus meet the just expecta-
tions of the United States. The papers relating
to the subject will be laid before you. It is be-
thought that, with the evacuation of Mexico by
the expeditionary forces, no subject for serious
differences between France and the United States
would remain. The expressions of the Emperor
and people of France warrant a hope that the
traditional friendship between the two countries
might, in that case, be renewed and permanently
restored.

A claim of a citizen of the United States for
indemnity for spoliations committed on the high
sea by the French authorities, in the exercise of
a belligerent power against Mexico, has been met
by the Government of France with a proposi-
tion to defer settlement until a mutual conven-
tion for the adjustment of all claims of citizens
and subjects of both countries, arising out of the
recent wars on this continent, shall be agreed
upon by the two countries. The suggestion is
not deemed unreasonable, but it belongs to Con-
gress to direct the manner in which claims for
indemnity by foreigners, as well as by citizens
of the United States, arising out of the late civil
war, shall be adjudicated and determined. I
have no doubt that the subject of all such claims
will engage your attention at a convenient and
proper time.

In the performance of a duty imposed upon
me by the Constitution, I have thus submitted
to the representatives of the States and of the
people such information of our domestic and
foreign affairs as the public interests seem to re-
quire. Our Government is now undergoing its
most trying ordeal, and my earnest prayer is that
the peril may be successfully and finally passed,
without impairing its original strength and sym-
metry. The interests of the nation are best to be
promoted by the revival of fraternal relations,
the complete abolition of our past differences,
and the reestablishment of all the pursuits of
peace. Directing our efforts to the early accom-
plishment of these great ends, let us endeavor to
preserve harmony between the co-ordinate De-
partments of the Government, that each in its
proper sphere may cordially cooperate with the
other in securing the maintenance of the Con-
sitution, the preservation of the Union, and the
perpetuity of our free institutions.

ANDREW JOHNSON.

WASHINGTON, December 3, 1866.

Veto of the Second Freedmen's Bureau Bill, July
16, 1866.*

To the House of Representatives:

A careful examination of the bill passed by the
two Houses of Congress, entitled "An act to con-
tinue in force the act to establish a Bureau for the
relief of Freedmen and Refugees,

* For veto of Freedmen's Bill of February 28, 1866, see
page 68 of Political Manual for 1866.

and for other purposes," has convinced me that
the legislation which it proposes would not be
consistent with the welfare of the country, and
that it falls clearly within the reasons assigned
in my message of the 19th of February last, re-
turning, without my signature, a similar measure
which originated in the Senate. It is not my
purpose to repeat the objections which I then
urged. They are yet fresh in your recollection,
and can be readily examined as a part of the
records of one branch of the national Legislature.

Adhering to the principles set forth in that mes-
sage, I now reaffirm them and the line of policy
therein indicated.

The only ground upon which this kind of legi-
slation can be justified is that of the war-making
power. The act of which this bill is intended as
amendatory was passed during the existence of
the war. By its own provisions, it is to termi-
itate within one year from the cessation of hos-
tilities and the declaration of peace. It is there-
fore yet in existence, and it is likely that it will
continue in force as long as the freedmen may
require the benefit of its provisions. It will
remain in operation, as a law, until

some months subsequent to the meeting of the
next session of Congress, when, if experience
shall make evident the necessity of additional
legislation, the two Houses will have ample time
to mature and pass the requisite measures. In
the mean time the questions arise, why should
this war measure be continued beyond the period
designated in the original act; and why, in time
of peace, should military tribunals be created to
continue until each "State shall be fully restored
in its constitutional relations to the Government,
and shall be duly represented in the Congress of
the United States?"*

It was manifest, with respect to the act ap-
proved March 3, 1865, that prudence and wis-
dom alike required that jurisdiction over all
cases concerning the free enjoyment of the im-
munities and rights of citizenship, as well as the
protection of person and property, should be
conferred upon some tribunal in every State or
district where the ordinary course of judicial
proceedings was interrupted by the rebellion,
and until the same should be fully restored. At
that time, therefore, an urgent necessity existed
for the passage of some such law. Now, how-
ever, war has substantially ceased; the ordinary
course of judicial proceedings is no longer inter-
rupted; the courts, both State and Federal, are
in full, complete, and successful operation, and
through them every person, regardless of race
and color, is entitled to and can be heard. The
protection granted to the white citizen is already
confided by law upon the freedman; strong and
stringent guards, by way of penalties and pun-
ishments, are thrown around his person and
property, and it is believed that ample protection
will be afforded him by due process of law, with-
out resort to the dangerous expedient of "mili-
tary tribunals," now that the war has been
brought to a close. The necessity no longer ex-
isting for such tribunals, which had their origin
in the war, grave objections to their continuance
must present themselves to the minds of all re-
flecting and dispassionate men. Independently
of the danger, in representative republics, of
confering upon the military, in time of peace,
extraordinary powers—so carefully guarded against by the patriots and statesmen of the earlier days of the Republic, so frequently the ruin of Governments founded upon the same false principles, and subversive of the rights and liberties of the citizen—the question of practical economy earnestly commends itself to the consideration of the law-making power. With an immense debt already burdening the incomes of the industrial and laboring classes, a due regard for their interests, so inseparably connected with the welfare of the country, should prompt us to rigid economy and retrenchment, and influence us to abstain from all legislation which would unnecessarily increase the public indebtedness. Tested by this rule of sound political wisdom, I can see no reason for the establishment of the “military jurisdiction” of the bureau by the fourteenth section of the bill.

By the laws of the United States and of the different States, competent courts, Federal and State, have been established and are now in full practical operation. They are open to all, without regard to color or race. I feel well assured that it will be better to trust the rights, privileges, and immunities of the citizen to tribunals thus established, and provided over by competent and impartial juries, than to the caprice or judgment of such, perhaps, as had never been witnessed in any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted. They are open to all, without regard to color or race. I feel well assured that it will be better to trust the rights, privileges, and immunities of the citizen to tribunals thus established, and provided over by competent and impartial juries, than to the caprice or judgment of such, perhaps, as had never been witnessed in any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted.

The fact cannot be denied that, since the actual cessation of hostilities, many acts of violence—such, perhaps, as had never been witnessed in their previous history—have occurred in the States involved in the recent rebellion. I believe, however, that public sentiment will sustain me in the assertion that such deeds of wrong are not confined to any particular State or section, but are manifested over the entire country, and that the cause that produced them does not depend upon any particular locality, but is the result of the agitation and derangement incident to a long and bloody civil war. While the prevalence of such disorders must be greatly deplored, their occasional and temporary occurrences would seem to furnish no necessity for the extension of the bureau beyond the period fixed in the original act.

Besides the objections which I have thus briefly stated, I may urge upon your consideration the additional reason, that recent developments in regard to the practical operations of the bureau in many of the States show that in numerous instances it is used by its agents as a means of promoting their individual advantage, and that the freedmen are employed for the advancement of the personal ends of the officers instead of their own improvement and welfare, thus confirming the fears originally entertained by many, that the continuation of such a bureau for any unnecessary length of time would inevitably result in fraud, corruption, and oppression. It is proper to state that in cases of this character investigations have been promptly ordered, and the offender punished; and the institution thus established has been satisfactorily established.

As another reason against the necessity of the legislation contemplated by this measure, refer to the “military jurisdiction” of the bureau by the fourteenth section of the bill.

By the provisions of the act, full protection is afforded to citizens of 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 of every State in which they may reside. They are open to all, without regard to color or race. I feel well assured that it will be better to trust the rights, privileges, and immunities of the citizen to tribunals thus established, and provided over by competent and impartial juries, than to the caprice or judgment of such, perhaps, as had never been witnessed in any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted. They are open to all, without regard to color or race.

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unwise, partial, and unconstitutional. It may
deprive persons of their property who are equally
deserving objects of the nation's bounty as those
whom, by this legislation, Congress seeks to
benefit. The title to the land thus to be por-
tioned out to a favored class of citizens must
depend upon the regularity of the tax sales,
under the law as it existed at the time of the
sale, and no subsequent legislation can give va-
ridy to the rights thus acquired, as against the
original claimants. The attention of Congress
is therefore invited to a more mature considera-
tion of the measures proposed in these sections
of the bill.

In conclusion, I again urge upon Congress the
danger of class legislation, as well calculated to
keep the public mind in a state of uncertain
expectation, disquiet, and restlessness, and to en-
courage interested hopes and fears that the na-
tional Government will continue to furnish to
classes of citizens in the several States means for
support and maintenance, regardless of whether
they pursue a life of indolence or of labor, and
regardless also of the constitutional limitations
of the national authority in times of peace and
tranquility.

The bill is herewith returned to the House of
Representatives, in which it originated, for its
final action.

ANDREW JOHNSON.
WASHINGTON, D. C., July 16, 1866.

Copy of the Vetoed Bill.

AN ACT to continue in force and to amend "An
act to establish a Bureau for the relief of
Freedmen and Refugees," and for other pur-
poses.

BE it enacted, &c., That the act to establish
a Bureau for the relief of Freedmen and Refugees,
approved March third, eighteen hundred and
sixty-five, shall continue in force for the term of
two years from and after the passage of this act.

SEC. 2. That the supervision and care of said
Bureau shall extend to all loyal refugees and
freedmen, so far as the same shall be necessary
to enable them to live as dependants or to be-
come self-supporting citizens of the United
States, and to aid in making the freedom conferred
by proclamation of the Commander-in-Chief, by
emancipation under the laws of States, and by
constitutional amendment, available to them and
beneficial to the Republic.

SEC. 3. That the President shall, by and with
the advice and consent of the Senate, appoint
two assistant commissioners, in addition to those
authorized by the act to which this is an amend-
ment, who shall give like bonds and receive the
same annual salaries provided in said act, and
each of the assistant commissioners of the bureau
shall have charge of one district containing such
refugees or freedmen, to be assigned him by the
Commissioner, with the approval of the Presi-
dent. And the Commissioner shall, under
the direction of the President, and so far as the
same shall be, in his judgment, necessary for the effi-
cient and economical administration of the affairs
of the bureau, appoint such agents, clerks, and
assistants as may be required for the proper con-
duct of the bureau. Military officers or enlisted
men may be detailed for service and assigned to
duty under this act; and the President may, if
in his judgment safe and judicious so to do, de-
tail from the Army all the officers and agents of
this bureau; but no officer so assigned shall have
increase of pay or allowances. Each agent or
clerk, not heretofore authorized by law, not be-
ing a military officer, shall have an annual salary
of not less than $500, nor more than $1,200, ac-
cording to the service required of him. And it
shall be the duty of the Commissioner, when it
can be done consistently with public interest, to
appoint, as assistant commissioners, agents, and
clerks, such men as have proved their loyalty by
faithful service in the armies of the Union during
the rebellion. And all persons appointed to ser-
vice under this act and the act to which this is
an amendment, shall be so far deemed in the
military service of the United States as to be un-
der the military jurisdiction and entitled to the
military protection of the Government while in
discharge of the duties of their office.

SEC. 4. That officers of the Veteran Reserve
Corps or of the volunteer service, now on duty
in the Freedmen's Bureau as assistant commis-
sioners, agents, medical officers, or in other ca-
pacities, whose regiments or corps have or
may hereafter be mustered out of service, may be
retained upon such duty as officers of said bu-
reau, with the same compensation as is now pro-
vided by law for their respective grades; and
the Secretary of War shall have power to fill
vacancies until other officers can be detailed in
their places without detriment to the public
service.

SEC. 5. That the second section of the act to
which this is an amendment shall be deemed
to authorize the Secretary of War to issue such
medical stores or other supplies and transporta-
tion, and afford such medical or other aid as
may be needful for the purposes named in said
section: Provided, That no person shall be deemed
desistive, "suffering," or "dependent upon
the Government for support," within the mean-
ing of this act, who is able to find employment,
and could, by proper industry or exertion, avoid
such destitution, suffering, or dependency.

SEC. 6. Whereas, by the provisions of an act
approved February sixth, eighteen hundred and
sixty-three, entitled "An act to amend an act
titled "An act for the collection of direct taxes
in insurrectionary districts within the United
States, and for other purposes," approved June
seventh, eighteen hundred and sixty-two," cer-
tain lands in the parishes of St. Helens and St.
Luke, South Carolina, were bid in by the United
States at public tax sales, and by the limitation
of said act the time of redemption of said lands
has expired; and whereas, in accordance with
instructions issued by President Lincoln on the
sixteenth day of September, eighteen hundred
and sixty-three, to the United States direct tax
commissioners for South Carolina, certain lands
bid in by the United States in the parish of St.
Helens, in said State, were in part sold by the
said tax commissioners to "heads of families of
the African race," in parcels of not more than
twenty acres to each purchaser; and whereas,
under the said instructions, the said tax commis-
sioners did also set apart as "school farms" cer-
tain parcels of land in said parish, numbered on
their plats from one to thirty-three, inclusive,
making an aggregate of six thousand acres, more or less. Therefore, be it further enacted, That the said tax commissioners shall issue to every person, or to his or her heirs, but in no case to any assigns, presenting such warrant, a lease of twenty acres of land, as provided for in section seven, for the term of six years; but at any time thereafter, upon the payment of a sum not exceeding one dollar and fifty cents per acre, the person holding such lease shall be entitled to a certificate of sale of said tract of twenty acres from the direct tax commissioner or such officer as may be authorized to make the same; but, for all warrants shall be held valid longer than two years after the issue of the same.

SEC. 10. That the direct tax commissioners for South Carolina are hereby authorized and required, at the earliest day practicable, to survey the lands designated in section seven into lots of twenty acres each, with proper metes and bounds distinctly marked, so that they may be convenient in form, and as near as practicable have an average of fertility and woodland; and the expense of such surveys shall be paid from the proceeds of sales, which shall be distributed among the owners of such lands, or their legal representatives, or their assigns, presenting such warrants, after the expiration of six months from the date of the sale, or, if sooner required, out of any moneys received for other lands on these islands, sold by the United States for taxes, and now in the hands of the direct tax commissioners.

SEC. 11. That restoration of lands occupied by freedmen under General Sherman's special field order dated at Savannah, Georgia, January sixteenth, eighteen hundred and sixty-three, for the term of six years; but at any time thereafter, upon the payment of a sum not exceeding one dollar and fifty cents per acre, the person holding such lease shall be entitled to a certificate of sale of said tract of twenty acres from the direct tax commissioner or such officer as may be authorized to make the same; but, for all warrants shall be held valid longer than two years after the issue of the same.

SEC. 12. That the Commissioner shall have power to seize, hold, use, lease, or sell all buildings, and tenements, and any lands appurtenant to the same, or otherwise, formerly held under color of title by the late so-called Confederate States, and not heretofore disposed of by the United States, and any buildings or lands held in trust for the same by any person or persons, and to use the same or appropriate the proceeds derived therefrom to the education of the freed people; and whenever the bureau shall cease to exist, such of said so-called Confederate States as shall have made provision for the education of their citizens without distinction of color shall receive the sum remaining unexpended of such sales or rentals, which shall be distributed among said States for educational purposes in proportion to their population.

SEC. 13. That the Commissioner of this bureau shall at all times co-operate with all benevolent associations of citizens in aid of freedmen, and with agents and teachers, duly accredited and appointed by them, and shall hire or provide by lease, buildings for purposes of education whenever such associations shall, without cost to the Government, provide suitable teachers and means of instruction; and he shall furnish such protection as may be required for the safe conduct of such schools.

SEC. 14. That in every State or district where
the ordinary course of judicial proceedings has been interrupted by the rebellion, and until the same shall be fully restored, and in every State or district where constitutional relations to the Government have been practically discontinued by the rebellion, and until such State shall have been restored in such relations, and shall be duly represented in the Congress of the United States, the right to make and enforce contracts, and to purchase, lease, sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings concerning personal liberty, personal security, and the acquisition, enjoyment, and disposition of estate, real and personal, including the constitutional right to bear arms, shall be secured to and enjoyed by all the citizens of such State or district without respect to race or color, or previous condition of slavery. And whenever in either of said States or districts the ordinary course of judicial proceedings has been interrupted by the rebellion, and until such State shall have been fully restored, and until such State shall have been restored in its constitutional relations to the Government, and shall be duly represented in the Congress of the United States, the President shall, through the Commissioner and the officers of the bureau, and under such rules and regulations as the President, through the Secretary of War, shall prescribe, extend military protection and have military jurisdiction over all cases and questions concerning the free enjoyment of such immunities and rights; and no penalty or punishment for any violation of law shall be imposed or permitted because of race or color, or previous condition of slavery, other or greater than the penalty or punishment to which white persons may be liable by law for the like offense. But the jurisdiction conferred by this section upon the officers of the bureau shall not exist in any State where the ordinary course of judicial proceedings has not been interrupted by the rebellion, and shall cease in every State when the courts of the State and the United States are not disturbed in the peaceable course of justice, and after such State shall be fully restored in its constitutional relations to the Government, and shall be duly represented in the Congress of the United States.

May 15. That all officers, agents, and employees of this bureau, before entering upon the duties of their office, shall take the oath prescribed in the first section of the act to which this is an amendment; and all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

The votes on this bill were:

May 25—The House passed its bill, differing in some details from the above—yeas 115, nays 33, as follow:

Joint Resolution declaring Tennessee again entitled to Senators and Representatives in Congress.

Whereas the State of Tennessee has in good faith ratified the article of amendment to the Constitution of the United States, proposed by the Thirty-Ninth Congress to the Legislatures of the several States, and has also shown to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States: Therefore,

So be it resolved by the Senate and House of Representatives of the United States in America in Congress assembled, That the State of Tennessee is hereby restored to her former proper, practical relations to the Union, and is again entitled to be represented by Senators and Representatives in Congress.

The vote was—yeas 28, nays 4, as follows:


July 23, 1866—The Senate amended and passed it in these words:

Joint Resolution restoring Tennessee to her relations to the Union.

Whereas, in the year eighteen hundred and sixty-one, the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State, in pursuance of an act of Congress, were declared to be in a state of insurrection against the United States; and whereas the people of said State did, on the twenty-second day of February, eighteen hundred and sixty-five, by a popular vote, adopt and ratify a constitution of government whereby slavery was abolished and all ordinances and laws of secession, and debts contracted under the same, were declared void; and whereas a State government has been organized under said constitution which has ratified the amendment to the Constitution of the United States abolishing slavery, also the amendment proposed by the Thirty-Ninth Congress, and has done other acts proclaiming and denoting loyalty; Therefore,

Be it resolved by the Senate and House of Representatives of the United States in America in Congress assembled, That the State of Tennessee is hereby restored to her former proper, practical relations to the Union, and is again entitled to be represented by Senators and Representatives in Congress.

The vote was—yeas 68, nays 28, as follows:


July 24—The President approved the bill, sending to the House this message:

To the House of Representatives.

The following "joint resolution, restoring Tennessee to her relations to the Union," was last evening presented for my approval:

"Whereas, in the year eighteen hundred and sixty-one, the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State, in pursuance of an act of Congress, were declared to be in a state of insurrection against the United States; and whereas said State government can only be restored to its former political relations in the Union by the consent of the law-making power of the United States; and whereas the people of said State did, on the twenty-second day of February, eighteen hundred and sixty-five, by a large popular vote, adopt and ratify a constitution of government whereby slavery was abolished and all ordinances and laws of secession, and debts contracted under the same, were declared void; and whereas a State government has been organized under said constitution, which has ratified the amendment to the Constitution of the United States abolishing slavery, also the amendment proposed by the Thirty-Ninth Congress, and has done other acts proclaiming and denoting loyalty; Therefore,

Be it resolved by the Senate and House of Representatives of the United States in Congress assembled, That the State of Tennessee is hereby..."
sumed. The amendment to the Constitution abolishing slavery forever within the limits of the States was reopened, the blockade removed, the Union restored to its former political relations, and debts contracted under the same were declared void.

So far, then, the political existence of the States and their relations to the Federal Government had been fully and completely recognized and acknowledged by the executive department of the Government; and the completion of the work of restoration, which had progressed so favorably, was submitted to Congress, upon which devolved all questions pertaining to the admission to their seats of the Senators and Representatives chosen from the States whose people had engaged in the rebellion.

All these steps had been taken, when, on the fourth day of December, eighteen hundred and sixty-five, the Thirty-Ninth Congress assembled. Nearly eight months have elapsed since that time; and no other plan of restoration having been proposed by Congress for the measures instituted by the Executive, it is now declared in the joint resolution submitted for my approval, "that the State of Tennessee is hereby restored to the Union, and is again entitled to be represented by Senators and Representatives in Congress." Thus, after the lapse of nearly eight months, Congress proposes to pave the way to the admission to representation of one of the eleven States whose people arrayed themselves in rebellion against the constitutional authority of the Federal Government.

Earnestly desiring to remove every cause of further delay, whether real or imaginary, on the part of Congress to the admission to seats of loyal Senators and Representatives from the State of Tennessee, I have, notwithstanding the anomalies character of this proceeding, affixed my signature to the resolution. My approval, however, is not to be construed as an acknowledgment of the right of Congress to pass laws preliminary to the admission of duly qualified representatives from any of the States. Neither is it to be considered as committing me to all the statements made in the preamble, some of which are, in my opinion, without foundation in fact, especially the assertion that the State of Tennessee has ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress. No official notice of such ratification has been received by the Executive, or filed in the Department of State; on the contrary, unofficial information from most reliable sources induces the belief that the amendment has not yet been constitutionally sanctioned by the Legislature of Tennessee.

The right of each House, under the Constitution, to judge of the elections, returns, and qualifications of its own members is undoubted, and my approval or disapproval of the resolution could not in the slightest degree increase or diminish the authority in this respect conferred upon the two branches of Congress.

In conclusion, I cannot too earnestly repeat my recommendation for the admission of Tennessee, and all other States, to a fair and equal participation in national legislation, when they present themselves in the persons of loyal Sena-
and Representatives, who can comply with all the requirements of the Constitution and the laws. By this means, harmony and reconciliation will be effected, the practical relations of all the States to the Federal Government re-established, and the work of restoration inaugurated upon the termination of the war, successfully completed. Andrew Johnson. Washington, D. C., July 24, 1866.

Vote of the District of Columbia Suffrage Bill, January 7, 1867.

To the Senate of the United States:

I have received and considered a bill entitled "An act to extend the elective franchise in the District of Columbia," passed by the Senate on the 13th of December, and by the House of Representatives on the succeeding day. It was presented for my approval on the 26th ult., and is now returned with my objections to the Senate, in which House it originated.

Measures having been introduced, at the commencement of the first session of the present Congress, for the extension of the elective franchise to persons of color in the District of Columbia, where were taken by the corporate authorities of Washington and Georgetown to ascertain and make known the opinion of the people of the two cities upon a subject so immediately affecting their welfare as a community. The question was submitted to the people at special elections, held in the month of December, 1865, when the qualified voters of Washington and Georgetown, with great unanimity of sentiment, expressed themselves opposed to the contemplated legislation. In Washington, in a vote of 6,556—the largest, with but two exceptions, ever polled in that city—only thirty-five ballots were cast for negro suffrage; while in Georgetown, in an aggregate of 813 votes—a number considerably in excess of the average vote at the preceding annual elections—but one was given in favor of the proposed extension of the elective franchise. As these elections seem to have been conducted with entire fairness, the result must be accepted as a truthful expression of the opinion of the people of the District upon the question which evoked it. Possessing, as an organized community, the same popular rights as the inhabitants of a State or Territory to make known their will upon matters which affect their social and political condition, they could have selected no more appropriate mode of memorializing Congress upon the subject of this bill than through the suffrages of their qualified voters.

Entirely disregarding the wishes of the people of the District of Columbia, Congress has deemed it right and expedient to pass the measure now submitted for my signature. It therefore becomes the duty of the Executive, standing between the legislation of the one and the will of the other, fairly to determine whether he should approve the bill, and thus aid in placing upon the statute-books of the nation a law against which the people to whom it is to apply have solemnly and with such unanimity protested, or whether he should return it with his objections, in the hope that, upon reconsideration, Congress, acting as the representatives of the inhabitants of the seat of Government, will permit them to regulate a purely local question as to them may seem best suited to their interests and condition.

The District of Columbia was ceded to the United States by Maryland and Virginia, in order that it might become the permanent seat of Government of the United States. Accepted by Congress, it at once became subject to the "exclusive legislation" for which provision is made in the Federal Constitution. It should be borne in mind, however, that in exercising its functions as the law-making power of the District of Columbia, the authority of the National Legislature is not without limit, but that Congress is bound to observe the letter and spirit of the Constitution, as well as the enactment of local laws for the seat of Government and legislation common to the entire Union. Were it to be admitted that the right to exercise exclusive legislation in all cases whatsoever, conferred upon Congress unlimited power within the District of Columbia, bills of attainder and ex post facto laws might be passed, and titles of nobility granted within its boundaries. Laws might be made "respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or of the people peaceably to assemble and to petition the Government for a redress of grievances." The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures might with impunity be violated. The right of trial by jury might be denied, excessive bail required, excessive fines imposed, and cruel and unusual punishments inflicted. Despotism would thus reign at the seat of government of a free republic; and, as a place of permanent residence, it would be avoided by all who prefer the blessings of liberty to the mere embellishments of official position.

It should also be remembered that in legislating for the District of Columbia, under the Federal Constitution, the relation of Congress to its inhabitants is analogous to that of a Legislature to the people of a State, under their own local constitution. It does not, therefore, seem to be asking too much that, in matters pertaining to the District, Congress should have a like respect for the will and interest of its inhabitants as is entertained by a State Legislature for the wishes and prosperity of those for whom it legislate. The spirit of our Constitution and the genius of our Government require that, in regard to any law which is to affect and have a permanent bearing upon a people, their will should exert at least a reasonable influence upon those who are acting in the capacity of the legislators. Would, for instance, the Legislature of the State of New York, or of Pennsylvania, or of Indiana, or of any State in the Union, in opposition to the expressed will of a large majority of the people whom they were chosen to represent, arbitrarily force them, as voters, all persons of the African or negro race, and make them eligible for office without any other qualification than a certain term of residence within the State? In neither of the States named.
would the colored population, when acting as a party or locally for any purpose, be able to produce a great social or political result. Yet, in New York, before he can vote, the man of color must fulfill conditions that are not required of the white citizen; in Pennsylvania, the elective franchise is restricted to white freemen; while in Indiana negroes and mulattoes are expressly excluded from the right of suffrage. It hardly seems consistent with the principles of right and justice that representatives of States where suffrage is either denied the colored man, or granted to him on qualifications requiring intelligence or property, should compel the colored citizen of the District to the vote they themselves enjoy.

The great object of placing the seat of Government under the exclusive legislation of Congress was to secure the entire independence of the General Government from undue State influence, and to enable it to discharge, without danger of interruption or infringement of its authority, the high functions for which it was created by the people. For this important purpose it was ceded to the United States by Maryland and Virginia, and it certainly never could have been contemplated, as one of the objects of the General Government, to permit or to lend an example of a government without representation—an experiment dangerous to the liberties of the States. On the other hand, it was held, among other reasons, and successfully, that the Constitution, the acts of cession of Virginia and Maryland, and the act of Congress accepting the grant, all contemplated the exercise of exclusive legislation by Congress, and that it was an example of a government without representation—

But it was urged on the one hand that exclusive jurisdiction was not necessary or useful to the Government; that it deprived the inhabitants of the District of their political rights; that much of the time of Congress was consumed in legislation pertaining to it; that its government was expensive; that Congress was not competent to legislate for the District, because the members were strangers to the inhabitants; and that if it was an example of government without representation—

...As a general rule, sound policy requires that the Legislature should yield to the wishes of a people, when not inconsistent with the Constitution and the laws. The measures suited to one community might not be well adapted to the condition of another; and the persons best qualified to determine such questions are those whose interests are to be directly affected by any proposed law. In Massachusetts, for instance, male persons are allowed to vote without regard to color, provided they possess a certain degree of intelligence. In a population in the District of 1,231,066, there were, by the census of 1860, only 9,602 persons of color; and of the State of 1,231,066, there were 339,086 white to 2,602 colored. By the same
official enumeration, there were in the District of Columbia 60,764 whites to 14,316 persons of the colored race. Since then, however, the population of the District has largely increased, and it is estimated that at the present time there are nearly a hundred thousand whites to thirty thousand negroes. The cause of the augmented numbers of the latter class needs no explanation. Continuous to Maryland and Virginia, the District, during the war, became a place of refuge for those who escaped from servitude, and it is yet the abiding place of a considerable proportion of the demand for labor. Before the war, though the colored people had become familiar with their habits of thought, and who have expressed the conviction that they are not yet competent to serve as electors, and thus become eligible for office in the local governments under which they live. Clothes with the elective franchise, their numbers, already largely in excess of the demand for labor, would be soon increased by an influx from the adjoining States. Drawn from fields where employment is abundant, they would in vain seek it here, and so add to the embarrassments already experienced from the large class of idle persons congregated in the District. Hardly yet capable of forming correct judgments upon the important questions that often make the issues of a political contest, they could readily be made subservient to the purposes of designing persons. While in Massachusetts, under the census of 1860, the proportion of white colored males over twenty years of age was one hundred and thirty to one, here the black race constitutes nearly one-third of the entire population, whilst the same class exceeds the District on all sides, ready to change their residence at a moment's notice, and with all the facility of a nomadic people, in order to enjoy here, after a short residence, a privilege they find nowhere else. It is within their power while here suffrage is extended to all, without restriction, as well to the most incapable, who can prove a residence in the District of one year, to those persons of color who, comparatively few in number, are permanent inhabitants, and having given evidence of merit and qualification, are recognized as useful and responsible members of the community. Imposed upon an unwilling people, placed, by the Constitution, under the exclusive legislation of Congress, it would be viewed as an arbitrary exercise of power, and as an indication by the country of the purpose of Congress to compel the acceptance of negro suffrage by the States. It would engender a feeling of opposition and hatred between the two races, and with the security of person and property as is enjoyed by white citizens, and are made "subject to like punishment, pains, and penalties, and to none other, any law or ordinance, regulation, or custom to the contrary notwithstanding." Nor, as has been assumed, are their suffrages necessary to aid a loyal sentiment here; for local governments already exist of undoubted zeal and equal benefits of all to the security of the public interest. They stand precisely as they stand in Pennsylvania, Ohio, and Indiana. Here, as elsewhere, in all that pertains to civil rights, there is nothing to distinguish this class of persons from citizens of the United States; for they possess the "full and equal benefits of all laws respecting the security of person and property as is enjoyed by white citizens," and are made "subject to like punishments, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding." The exercise of the elective franchise is the highest attribute of an American citizen, and, when guided by virtue, intelligence, patriotism, and a proper appreciation of our institutions, constitutes the true basis of a democratic form of government, in which the sovereign power is lodged in the body of the people. Its influence for good necessarily depends upon the elevated character and patriotism of the elector; for if exercised by persons who do not justly estimate its value, and who are indifferent to its results, it will only serve as a means of placing power in the hands of the unprincipled and ambitious, and must eventuate in the complete destruction of that liberty of which it should be the most powerful conservator. Great danger is, therefore, to be apprehended from an untimely extension of the elective franchise to any new class in our country, especially when the large majority of that class are color. The power thus placed in their hands, cannot be expected correctly to comprehend the duties and responsibilities which pertain to suffrage. Yesterda
as it were, four millions of persons were held in a condition of slavery that had existed for generations: today they are as free as any person born in the United States, and are assumed by law to be citizens. It cannot be presumed, from their previous condition of servitude, that as a class they are as well informed as to the nature of our Government as the intelligent foreigner who makes our land the home of his choice. In the case of the latter, neither a residence of five years, and the knowledge of our institutions, for it can only become to our political power-speak, by their suffrages, through the instrumentality of the ballot-box, it must be carefully guarded against the control of those who are corrupt in principle and enemies of free institutions; for it can only become to our political and social system a safe conductor of healthy popular sentiment when kept free from demoralizing influences. Controlled, through fraud and usurpation, by the designing, anxious and despotic, must inevitably follow. In the hands of the patriotic and worthy, our Government will be preserved upon the principles of the Constitution inherited from our fathers. It follows, therefore, that in admitting to the ballot-box a new class of voters not qualified for the elective franchise, we weaken our system of government instead of adding to its strength and durability.

To returning this bill to the Senate, I deeply regret that there should be any conflict of opinion between the legislative and executive departments of the Government in regard to measures that vitally affect the prosperity and peace of the country. Sincerely desiring to conciliate the States with one another, and the whole people, to the Government of the United States, it has been my earnest wish to cooperate with Congress in all measures having for their object a proper and complete adjustment of the questions resulting from our late civil war. Harmony between the co-ordinate branches of the Government, always necessary for the public welfare, was never more demanded than at the present time, and it will therefore be my constant aim to promote, as far as possible, concert of action between them. The differences of opinion that have already occurred have rendered me only the more cautious lest the Executive should encroach upon any of the prerogatives of Congress, or, by exceeding in any manner the constitutional limit of his duties, destroy the equilibrium which should exist between the several co-ordinate departments, and which is so essential to the harmonious working of the Government. I know it has been urged that the executive department is more likely to enlarge the sphere of its action than either of the other two branches of the Government, and especially in the exercise of the veto power conferred upon it by the Constitution. It should be remembered, however, that this power is wholly negative and conservative in its character, and was intended to operate as a check upon unconstitutional, hasty, and improvident legislation, and as a means of protection against invasions of the just powers of the executive and judicial departments. It is remarked by Chancellor Kent that "to enact laws is a transcendent power; and, if the body that possesses it be a full and equal representation of the people, there is danger of its pressing with destructive weight upon all the other parts of the machinery of government. It has, therefore, been thought necessary, by the most skillful and most experienced artists in the science of civil polity, that strong barriers should be erected for the protection and security of the other necessary functions of the Government. Nothing has been deemed more fit and expedient for the purpose than the provision that the head of the executive department should be so constituted as to secure a requisite share of independence, and that he should have a negative upon the passing of laws; and that the judiciary power, resting on a still more permanent basis, should have the right of determining upon the validity of laws by the standard of the Constitution."

The necessity of some such check in the hands of the Executive is shown by reference to the most eminent writers upon our system of government, who see in the opinion that encroachments are most to be apprehended from the department in which all legislative powers are vested by the Constitution. Mr. Madison, in referring to the difficulty of providing some practical security for each against the invasion of the others, remarks that "the legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex." "The founders of our republic seem never to have recollected the danger from legislative usurpations, which, by assembling all power in the same hands, must lead to the same tyranny as is threatened by executive usurpations." In a representative republic, where the executive is not so completely limited, both in the extent and the duration of its power, and where the legislative power is exercised by an assembly which is inspired by a supposed influence over the people with an intrepid confidence in its own strength, which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions by means which reason prescribes—it is against the enterprising ambition of this department that the people ought to indulge all their jealousy and exhaust all their precautions."

"The legislative department derives a superiority in our governments from other circumstances. Its constitutional powers being at once more extensive and less susceptible of precise limits, it can with the greater facility mask under complicated and indirect measures, the encroachments which it makes on the co-ordinate departments."

"On the other side, the executive power being restrained within a narrower compass, and being more simple in its nature, and the judiciary being described by landmarks still less uncertain, projects of usurpation by either of these departments would immediately betray and defeat themselves. Nor is this all. As the legislative
Mr. Jefferson, in referring to the early constitution of Virginia, objected that its provisions all the powers of government, legislative, executive, and judicial, resulted to the legislative body, holding that "the concentrating these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands, and not by a single one." One hundred and seventy-three despots would surely be oppressive as one. "As little will it avail us that they are chosen by ourselves. An elective despotism was not the government we fought for, but one which should not only be founded on free principles, but which the powers of government should be divided and balanced among several bodies of magistracy so that no one could transcend their legal limits without being effectively checked and restrained by the others. For this reason, the Convention which passed the ordinance of government laid its foundation on this basis, that the legislative, executive, and judicial departments should be separate and distinct, so that no person should exercise the powers of more than one of them at the same time. But no barrier was provided between these several powers. The judiciary and executive members were left dependent on the legislative for their subsistence, trial, and punishment; the executive and judiciary members, on the legislative for their appointment. Thus the legislature was uncontrolled, and the executive and judiciary departments were without check or restraint; because, in that case they may put their proceedings into the form of an act of assembly, which will render them obligatory on the other branches. They have accordingly, in many instances, decided rights which should have been left to judiciary controversy; and the direction of the executive, during the whole time of their session, is becoming habitual and familiar.

Mr. Justice Story, in his Commentaries on the Constitution, reviews the same subject, and says:  
"The truth is, that the legislative power is the great and omnipotent power, in every free government. The representative of the people will watch with jealousy every encroachment of the executive magistrate, for it tramples upon their own authority. But who shall watch the encroachment of these representatives themselves? Will the legislature itself be subject to the exercise of power by themselves? They must be subject to the exercise of power by themselves. They are not men whom we mean to place in a position, and to place them in a position, with a power to encroach upon their own authority. They are not men whom we mean to place in a position to execute the same powers as they will have in the execution of those powers. They are not men whom we mean to place in a position to execute the same powers as they will have in the execution of those powers. They are not men whom we mean to place in a position to execute the same powers as they will have in the execution of those powers. They are not men whom we mean to place in a position to execute the same powers as they will have in the execution of those powers. They are not men whom we mean to place in a position to execute the same powers as they will have in the execution of those powers."
PRESIDENT JOHNSON'S MESSAGES.

intended by the framers of the Constitution should be exerted by them. This would be a practical concentration of all power in the Congress of the United States; that, in the language of the author of the Declaration of Independence, would be "precisely the definition of despotic government."

I have preferred to reproduce these teachings of the great statesmen and constitutional lawyers of the early and later days of the Republic rather than to rely simply upon an expression of my own opinions. We cannot too often recur to them, especially at a conjuncture like the present. Their application to our actual condition is so apparent that they now come to us a living truth, and not the mere creations of the earlier or later days of our history. We have been and are yet in the midst of popular commotion. The passions aroused by a great civil war are still dominant. It is not a time favorable to that calm and deliberate judgment which is the only safe guide when radical changes in our institutions are to be made. The measure now before me is one of those changes. It initiates an untried experiment for a people who have said, with one voice, that it is not for their good. This alone should make us pause; but it is not all. The experiment has not been tried, or so much as demanded, by the people of the several States for themselves. In but few of the States has such an innovation been allowed as giving the ballot to the colored population without any other qualification than a residence of one year, and in most of them the denial of the ballot to this race is absolute, and by fundamental law placed beyond the domain of ordinary legislation. In most of those States the evil of such suffrage would be partial; but, small as it would be, it is guarded by constitutional barriers. Here the innovation assumes formidable proportions, which may easily grow to such extent as to make the white population a subordinate element in the body politic.

After full deliberation upon this measure, I cannot bring myself to approve it, even upon local considerations, now at the beginning of an experiment on a larger scale. I yield to no one in attachment to that rule of general suffrage which distinguishes our policy as a nation. But there is a limit, wisely observed hitherto, which makes the ballot a privilege and a trust, and which requires of some classes a time suitable for probation and preparation. To give it indiscriminately to a new class, wholly, unprepared by previous habits and opportunities to perform the trust which it demands, is to degrade it, and finally to destroy its power; for it may be safely assumed that no political truth is better established than that such indiscriminate and all-embracing extension of popular suffrage must end in its destruction.

A. W. JOHNSON.

WASHINGTON, January 5, 1867.

Copy of the Bill Vetoed.

An Act to regulate the elective franchise in the District of Columbia.

Be it enacted, &c., 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 upwards, 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. That any person whose duty it shall be to receive votes at any election within the District of Columbia, who shall wilfully refuse to receive, or who shall wilfully 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 both.

SEC. 3. That if any person or persons shall wilfully 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. 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. 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 city or general election in said District; 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. 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. 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. 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 other 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, 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. That any person who shall accept, directly or indirectly, any money, goods, right in action, bribe, present, or reward, or any other 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 fine for an amount not exceeding two thousand dollars, or imprisoned not exceeding two years, or both, at the discretion of the court.

The votes on this bill were:

1866, December 14—The Senate passed it—yeas 32, nays 13, as follow:


Veto of the Colorado Bill, January 29, 1867.

To the Senate of the United States:

I return to the Senate, in which House is originated, a bill entitled “An act to admit the State of Colorado into the Union, to which I cannot, consistently with my sense of duty, give my approval. With the exception of an additional section, containing new provisions, it is substantially the same as the bill of a similar title passed by Congress during the last session, submitted to the President for his approval, returned with the objections contained in a message bearing date the 15th of May last, and yet awaiting the reconsideration of the Senate.

A second bill, having in view the same purpose, has now passed both Houses of Congress, and been presented for my signature. Having again carefully considered the subject, I have been unable to perceive any reason for changing the opinions which have already been communicated to Congress. I find, on the contrary, that there are many objections to the proposed legislation, of which I was not at that time aware; and that while several of those which I then assigned have, in the interval, gained in strength, yet others have been created by the altered character of the measure now submitted. The constitution under which this State government is proposed to be formed very properly contains a provision that all laws in force at the time of its adoption, and the submission of the State into the Union, shall continue as if the constitution had not been adopted. Among these laws is one absolutely prohibiting negroes and mulattoes from voting. At the recent session of the Territorial Legislature a bill for the repeal of this law, introduced into the council, wa-
The incongruity thus exhibited between the legislation of Congress and that of the Territory, taken in connection with the protest opposed to the admission of the State hereinafter referred to, would seem clearly to indicate the impolicy and injustice of the proposed enactment.

I am unable to perceive any good reason for such great disparity in the right of representation, giving, as it would, to the people of Colorado, not only this vast advantage in the House of Representatives, but an equality in the Senate, where the other States are represented by millions. With perhaps a single exception, no such inequality as this has ever before been attempted. I know that it is claimed that the population of Colorado at the time of their admission has varied at different periods, but it has not varied much more than the population of each decade and the corresponding basis of representation for the different periods.

The obvious intent of the Constitution was, that no State should be admitted with a less population than the ratio for a Representative at the time of application. The limitation in the second section of the first article of the Constitution, declaring that "the number of Representatives shall not exceed one for every thirty thousand," is at least a violation of the spirit, if not the letter of the Constitution. It is respectfully submitted that however Congress, under the pressure of circumstances, may have admitted two or three States with less than a representative population at the time, there has been no instance in which an application for admission has even been entertained when
the population, as officially ascertained, was below thirty thousand.

Were there any doubt of this being the true construction of the Constitution, it would be dispelled by the early and long-continued practice of the Federal Government. For nearly sixty years after the adoption of the Constitution no State was admitted with a population believed at the time to be less than the current ratio for admission. In 1845, in the case of Florida, there appears to have been a departure from the principle of restraint, in the flowing words:

"the result of sectional strife, we would do well to regard it as a warning of evil rather than as an example for imitation, and I think candid men of all parties will agree that the inspiring cause of the violation of this wholesome principle of restraint is to be found in a vain attempt to balance those antagonisms which refused to be reconciled except through the bloody arbitration of arms. The plain facts of our history will attest that the great and leading States then and from the adoption of the Federal Constitution, with the date of admission, the ratio of representation, and the representative population when admitted, deduced from the United States census tables, the calculation being made for the period of the decade corresponding with the date of admission:

<table>
<thead>
<tr>
<th>State</th>
<th>Admitted</th>
<th>Ratio</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vermont</td>
<td>1791</td>
<td>1872</td>
<td>25,000</td>
</tr>
<tr>
<td>Kentucky</td>
<td>1792</td>
<td>1791</td>
<td>33,000</td>
</tr>
<tr>
<td>Tennessee</td>
<td>1796</td>
<td>1792</td>
<td>33,000</td>
</tr>
<tr>
<td>Ohio</td>
<td>1802</td>
<td>1802</td>
<td>30,000</td>
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<tr>
<td>Louisiana</td>
<td>1812</td>
<td>1812</td>
<td>30,000</td>
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<tr>
<td>Indiana</td>
<td>1816</td>
<td>1816</td>
<td>30,000</td>
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<tr>
<td>Mississippi</td>
<td>1817</td>
<td>1817</td>
<td>30,000</td>
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<tr>
<td>Illinois</td>
<td>1818</td>
<td>1818</td>
<td>30,000</td>
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<tr>
<td>Alabama</td>
<td>1819</td>
<td>1819</td>
<td>30,000</td>
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<tr>
<td>Maine</td>
<td>1820</td>
<td>1820</td>
<td>30,000</td>
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<tr>
<td>Missouri</td>
<td>1821</td>
<td>1821</td>
<td>30,000</td>
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<tr>
<td>Arkansas</td>
<td>1836</td>
<td>1836</td>
<td>30,000</td>
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<tr>
<td>Michigan</td>
<td>1837</td>
<td>1837</td>
<td>30,000</td>
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<tr>
<td>Florida</td>
<td>1845</td>
<td>1845</td>
<td>30,000</td>
</tr>
<tr>
<td>Texas</td>
<td>1846</td>
<td>1846</td>
<td>30,000</td>
</tr>
<tr>
<td>Iowa</td>
<td>1846</td>
<td>1846</td>
<td>30,000</td>
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<tr>
<td>Wisconsin</td>
<td>1848</td>
<td>1848</td>
<td>30,000</td>
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<tr>
<td>California</td>
<td>1850</td>
<td>1850</td>
<td>30,000</td>
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<tr>
<td>Oregon</td>
<td>1858</td>
<td>1858</td>
<td>30,000</td>
</tr>
<tr>
<td>Minnesota</td>
<td>1859</td>
<td>1859</td>
<td>30,000</td>
</tr>
<tr>
<td>Kansas</td>
<td>1861</td>
<td>1861</td>
<td>(not known)</td>
</tr>
<tr>
<td>Washington</td>
<td>1882</td>
<td>1882</td>
<td>(not known)</td>
</tr>
<tr>
<td>Nevada</td>
<td>1864</td>
<td>1864</td>
<td>(not known)</td>
</tr>
</tbody>
</table>

It is no answer to these suggestions that an enabling act was passed authorizing the people of Colorado to take action on this subject. It is well known that such acts of representation that the population, reached, according to some statements, as high as eighty thousand, and to none less than fifty thousand, and was growing with a rapidity which by the time the admission could be consummated would secure a population of over a hundred thousand. These representations prove to have been wholly fallacious, and in addition, the people of the Territory, by a deliberate vote, decided that they would not assume the responsibilities of a State government. By that decision they utterly exhausted all power that was conferred by the enabling act, and there has been no step taken since in relation to the admission that has had the slightest sanction or warrant of law. The proceeding upon which the present application is based was in the utter absence of all law in relation to it, and there is no evidence that the votes on the question of the formation of a State government bear any relation whatever to the sentiment of the Territory. The protest of the House of Representatives, previously quoted, is conclusive evidence to the contrary.

But if none of these reasons existed against this proposed enactment, the bill itself, besides being inconsistent in its provisions in conferring power upon a person unknown to the laws, and who may never have a legal existence, is so framed as to render its execution almost impossible. It is, indeed, a question whether it is not in itself a nullity. To say the least, it is of exceedingly doubtful propriety to confer the power proposed in the bill upon the "power to elect," for, as by its own terms the constitution is not to take effect until after the admission of
the State, be, in the mean time, has no more authority than any other private citizen. But, even supposing him to be clothed with sufficient authority to convene the Legislature, what constitutes the "State Legislature," to which is to be referred the question of submission to the conditions imposed by Congress? Is it a new body, to be elected and convened by proclamation of the "Governor elect," or is it that body which met more than a year ago, under the provisions of the State constitution? By reference to the second section of the schedule, and to the eighteenth section of the fourth article of the State constitution, it will be seen that the term of the members of the House of Representatives, and that of one-half of the members of the Senate, expired on the first Monday of the present month. It is clear that if there were no intrinsic objections to the bill itself in relation to the purposes to be accomplished, this objection would be fatal; but it is apparent that the provisions of the third section of the bill to admit Colorado have reference to a period and a state of facts entirely different from the present, and affairs as they now exist, and, if carried into effect, must necessarily lead to confusion.

Even if it were settled that the old and not a new body were to act, it would be found impracticable to execute the law, because a considerable number of the members, as I am informed, have ceased to be residents of the Territory, and in the sixty days within which the Legislature is to be convened after the passage of the act there would not be sufficient time to fill the vacancies by new elections, were there any authority under which they could be held. It may not be improper to add that if these proceedings were all regular, and the result to be attained were desirable, simple justice to the people of the Territory would require a longer period than sixty days within which to obtain action on the conditions proposed by the third section of the bill. There are, as is well known, large portions of the Territory with which there is and can be no general communication, there being several counties which, from November to May, can only be reached by persons travelling on foot, while with other regions of the Territory, occupied by a large portion of the population, there is very little restriction of access. Thus, if this bill should become a law, it would be impracticable to obtain any expression of public sentiment in reference to its provisions, with a view to enlighten the Legislature, if the old body were called together; and, of course, equally impracticable to procure the election of a new body. This defect might have been remedied by an extension of the time, and a submission of the question to the people, with a fair opportunity to enable them to express their sentiments.

The admission of a new State has generally been regarded in our history, marking the onward progress of the nation; but, after the most careful and anxious inquiry on the subject, I cannot perceive that the proposed proceeding is in conformity with the policy which, from the origin of the Government, has uniformly prevailed in the admission of new States. I therefore return the bill to the Senate without my signature.

Andrew Johnson.
Washington, January 28, 1867.

Copy of the Bill Vetoed.

An Act to admit the State of Colorado into the Union.

 Whereas, on the twenty-first day of March, anno Domini eighteen hundred and sixty-four, Congress passed an act to enable the people of Colorado to form a constitution and State Government, and offer to admit said State, when so formed, into the Union upon compliance with certain conditions therein specified; and whereas as it appears by message of the President of the United States, dated January , eighteen hundred and sixty-six, that the said people have adopted a constitution, which, upon due examination, is found to conform to the provisions and comply with the conditions of said act, and that they now ask for admission into the Union:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the constitution and State government which the people of Colorado have formed for themselves be, and the same is hereby, accepted, ratified, and confirmed; and that the said State of Colorado shall be, and hereby is declared to be, one of the United States of America, and is hereby admitted into the Union upon an equal footing with the original States in all respects whatever.

Sec. 2. And be it further enacted, That the said State of Colorado shall be, and is hereby declared to be, entitled to all the rights, privileges, grants, and immunities, and to be subject to all the conditions and restrictions of an act entitled "An act to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," that was passed by Congress, March twenty-first, eighteen hundred and sixty-four.

Sec. 3. And be it further enacted, That this act shall not take effect except upon the fundamental condition that within the State of Colorado there shall be no denial of the elective franchise, or any other right, to any person by reason of race or color, excepting Indians not taxed; and upon the further fundamental condition that the Legislature elected under said State constitution, by a solemn act of the people of said State, shall declare the same to be, and the same is hereby declared to be, one of the United States of America, and is hereby admitted into the Union upon an equal footing with the original States, as an authentic copy of said act; upon receipt whereof the President, by proclamation, shall proclaim the act, whereupon said fundamental condition shall be held as a part of the organic law of the State; and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete.

Said State Legislature shall be convened by the Governor elect of said State within sixty days after the passage of this act, to act upon the condition submitted herein.

The vote on this bill was:

1867, January 9—The bill passed the Senate, yeas 23, nays 11, with the third section in these words:

That this act shall take effect with the fundamental and perpetual condition that within said State of Colorado there shall be no abridgment or denial of the exercise of the elective franchise, or of any other right, to any person by reason of race or color, (excepting Indians not taxed.)
The people of Nebraska, availing themselves of a session; but, submitted at a time when there was no opportunity for further consideration and compliance with the conditions of said act, and adopted a constitution which, upon due examination, is found to conform to the provisions of the Federal Constitution, under the provisions of the third section as it stands—yeas 27, nays 12, as follows:


Nay—Messrs. Buckalew, Dodds, Folsom, Grimes, Hendricks, Johnson, Morgan, NeSmith, Norton, Patterson, Riley—11.

January 16—The Senate agreed to the bill with the third section as it stands; yeas 27, nays 12, as follows:

Yea—Messrs. Anthony, Cattell, Chandler, Converse, Con¬

Nay—Messrs. Buckalew, Dixon, Dodds, Edwards, Fos¬
er, Hendricks, Johnson, NeSmith, Norton, Patterson, Rodd, Stai¬dahy—12.

In House, December 15—The bill passed; yeas 90, nays 60, as follows:


The vote on substituting the third section as it stands for that of the Senate, taken previously to the above vote, was yeas 84, nays 135, being substantially the same as on the Nebraska bill, below.

January 29—The bill was vetoed, and no votes were subsequently taken on it.

Veto of the Nebraska Bill, January 30, 1867.

To the Senate of the United States:

I return, for reconsideration, a bill entitled "An act for the admission of the State of Ne¬braska into the Union," which originated in the Senate, and has received the assent of both Houses of Congress. A bill having in view the exercise of the elective franchise, and the right to hold office, are expressly limited to white citizens of the United States, Congress has declared in the preamble "to be republican in its form of government," for that instrument the exercise of the elective franchise, and the right to hold office, are expressly limited to white citizens of the United States. Congress thus undertakes to authorize and compel the Legislature to change a constitution which it is declared in the preamble has received the sanction of the people, and which by this bill is "accepted, ratified, and confirmed" by the Congress of the nation.

The first and third sections of the bill exhibit yet further incompleteness. By the one Nebraska is "admitted into the Union upon an equal footing with the original States, in all respects whatsoever," while by the other Congress demands, as a condition precedent to her admission, requirements which in our history have never been asked of any people when presenting a constitution and State government for the acceptance of the law-making power. It is expressly declared by the third section that the "shall not take effect except upon the fundamental condition that within the State of Nebraska there be no denial of the elective franchise, or of any other right, to any person, by reason of race or color, except Indians not taxed; and upon the further fundamental condition that the Legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act, upon receipt thereof the President, by proclamation, shall forthwith announce the fact, whereupon said fundamental condition shall be held as a part of the organic law of the State; and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete." This condition is not mentioned in the original enabling act; was not contemplated at the time of its passage; was not sought by the people themselves; has not heretofore been applied to the inhabitants of the State. In that instrument the exercise of the elective franchise, and the right to hold office, are expressly limited to white citizens of the United States. Congress thus undertakes to authorize and compel the Legislature to change a constitution which it is declared in the preamble has received the sanction of the people, and which by this bill is "accepted, ratified, and confirmed" by the Congress of the nation.

It appears, by the preamble of this bill, that the people of Nebraska, availing themselves of the authority conferred upon them by the act passed on the 18th day of April, 1864, "have adopted a constitution which, upon due examination, is found to conform to the provisions and comply with the conditions of said act, and to be republican in its form of government; and, that they now ask for admission into the Union." This proposed law would, therefore, seem to be based upon the declaration contained in the enabling act, that, upon compliance with its terms, the people of Nebraska should be admitted into the Union upon an equal footing with the original States. Reference to the bill, however, shows that while, by the first section, Congress distinctly accepts, ratifies and confirms the constitution and State government which the people of the Territory have formed for themselves, declares Nebraska to be one of the United States of America, and admits her into the Union upon an equal footing with the original States in all respects whatsoever, the third section provides that the measure "shall not take effect except upon the fundamental condition that within the State of Nebraska there be no denial of the elective franchise, or of any other right, to any person, by reason of race or color, except Indians not taxed." Neither more nor less than the assurance of the right of Congress to regulate the elective franchise of any State hereafter to be admitted, this condition is in clear violation of the Federal Constitution, under the provisions of...
which, from the very foundation of the Government, each State has been left free to determine for itself the qualifications necessary for the exercise of suffrage within its limits. Without precedent in our legislation, it is in marked contrast with those limitations which, imposed upon States that, from time to time, have become members of the Union, had for their object the single purpose of preventing any infringement of the Constitution of the country.

If Congress is satisfied that Nebraska, at the present time, possesses a sufficient population to entitle her to full representation in the councils of the nation, and that her people desire an exchange of a territorial for a State government, it may seem to demand that she should be admitted without further requirements than those expressed in the enabling act, with all of which, it is asserted in the preamble, her inhabitants have complied. Congress may, under its organic Constitution, admit new States or reject them, but the people of a State can alone make or change their organic law and prescribe the qualifications requisite for electors. Congress, however, in passing the bill in the shape in which it has been submitted for my approval, does not merely reject the application of the people of Nebraska for present admission as a State into the Union, on the ground that the constitution which they have submitted restricts the exercise of the elective franchise to the white population, but imposes conditions which, if accepted by the Legislature, may, without the consent of the people, so change the organic law as to make electors of all persons within the State, without distinction of race or color. In view of this fact, I suggest for the consideration of Congress, whether it would not be just, expedient, and in accordance with the principles of our government, to allow the people, by popular vote, or through a convention chosen by themselves for that purpose, to declare whether or not they will accept the terms upon which it is now proposed to admit them into the Union. This course will not occasion much greater delay than that which the bill contemplates when it requires that the Legislature shall be convened within thirty days after this measure shall have become a law, for the purpose of considering and deciding the conditions which it imposes, and gains additional force when we consider that the proceedings attending the formation of the State constitution were not in conformity with the provisions of the enabling act, that is, an aggregate vote of seven thousand, seven hundred and seventy-six, the majority in favor of its constitution did not exceed one hundred; and that it is alleged that, in consequence of frauds, even this result cannot be received as a fair expression of the wishes of the people. As upon them must fall the burdens of a State government, it is but just that they should be permitted to determine for themselves a question which so materially affects their interests. Possessing a soil and a climate admirably adapted to those industrial pursuits which bring prosperity and greatness to a people, with the advantage of a central position on the great highway that will soon connect the Atlantic and Pacific States, Nebraska is rapidly gaining in numbers and wealth, and may within a very brief period claim admission on grounds which will challenge and secure universal assent. She can therefore wisely and patiently afford to wait. Her population is said to be steadily and even rapidly increasing, being now generally conceded as high as forty thousand, and estimated by some, whose judgment is entitled to respect, at a still greater number. At her present rate of growth, she will, in a very short time, have the requisite population for a Representative in Congress, and, what is far more important to her own citizens, will have realized such an advance in material wealth as will enable the expenses of a State government to be borne without oppression to the tax-payer. Of new communities it may be said with special force—and it is true of old ones—that the inducement to emigrants, other things being equal, is in almost the precise ratio of the rate of taxation. The great States of the Northwest owe their marvellous prosperity largely to the fact that they were continued as Territories until they had grown to be wealthy and populous communities.

Andrew Johnson.

Washington, January 29, 1867.

Copy of the Bill Vetoed.

AN ACT for the admission of the State of Nebraska into the Union.

Whereas, on the twenty-first day of March, anno Domini eighteen hundred and sixty-four, Congress passed an act to enable the people of Nebraska to form a constitution and State government, and offered to admit said State, when so formed, into the Union upon compliance with certain conditions therein specified; and whereas it appears that the said people have adopted a constitution which, upon due examination, is found to conform to the provisions and comply with the conditions of said act, and to be republican in its form of government, and that they now ask for admission into the Union: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the constitution and State government which the people of Nebraska have formed for themselves be, and the same is hereby, accepted, ratified, and confirmed, and that the said State of Nebraska shall be, and is hereby declared to be, one of the United States of America, and is hereby admitted into the Union upon an equal footing with the original States in all respects whatsoever.

Sec. 2. And be it further enacted, That the said State of Nebraska shall be, and is hereby declared to be, entitled to all the rights, privileges, grants, and immunities, and to be subject to all the conditions and restrictions of an act entitled “An act to enable the people of Nebraska to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States.”

Sec. 3. And be it further enacted, That this act shall not take effect except upon the fundamental condition that within the State of Nebraska there shall be no denial of the elective franchise, or of any other right, to any person by reason of race or color, except Indians not
taxed, and upon the further fundamental condition that the Legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act. Upon receipt thereof the President, by proclamation, shall forthwith announce the fact; whereupon said fundamental condition shall be held as a part of the organic law of the State; and thereof, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete. Said State Legislature shall be convened by the Territorial Governor within thirty days after the passage of this act, to act upon the condition submitted herein.

The votes on this bill were:

1867, January 9—A bill passed in Senate—yea 24, nays 15, with the third section in these words:

"That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise, or of any other right, to any person by reason of race or color, excepting Indians not taxed!"

January 9—The Senate agreed to the third section as it stands—yea 25, nays 14, as follows:

"That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise, or of any other right, to any person by reason of race or color, excepting Indians not taxed!"

The bill then passed, as above.

January 30—The bill was vetoed.

February 8—The Senate passed it over the veto—yea 30, nays 9, as follows:

"That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise, or of any other right, to any person by reason of race or color, excepting Indians not taxed!"

February 9—The House passed the bill—yea 120, nays 46, as follows:

"That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise, or of any other right, to any person by reason of race or color, excepting Indians not taxed!"

For copy of the bill vetoed, see chap. xvii.

Yeto of the Reconstruction Bill, March 2, 1867.

To the House of Representatives:

I have examined the bill to provide for the more efficient government of the rebel States with the care and anxiety which its transcendent importance is calculated to awaken. I am

*For copy of the bill vetoed, see chap. xvii.*
unable to give it my assent for reasons so grave, that I hope a statement of them may have some influence on the minds of the patriotic and enlightened men with whom the decision must ultimately rest.

The bill places all the people of the ten States therein named under the absolute domination of military rulers; and the preamble undertakes to give the reason upon which the measure is based, and the ground upon which it is justified. It declares that there exists in those States no legal governments, and no adequate protection for life or property, and asserts the necessity of enforcing peace and good order within their limits. Is this true as matter of fact?

It is not denied that the States in question have each of them an actual Government, with all the powers, executive, judicial, and legislative, which properly belong to a free State. They are organized like the other States of the Union, and, like them, they make, administer, and defend the laws which concern their domestic affairs. An existing de facto government, exercising such functions as these, is itself the law of the State upon all matters within its jurisdiction. To pronounce the supreme law-making power of an established State illegal is to say that law itself is unlawful.

The provisions which these Governments have made for the preservation of order, the suppression of crime, and the redress of private injuries, are in substance and principle the same as those which prevail in the northern States and in other civilized countries. They certainly have not succeeded in preventing the commission of all crime, nor has this been accomplished anywhere in the world. There, as well as elsewhere, offenders sometimes escape for want of vigorous prosecution, and occasionally, perhaps, by the insufficiency of courts or the prejudice of juries. It is undoubtedly true that these evils have been much increased and aggravated, North and South, by the demoralizing influences of civil war, and by the rancorous passions which the contest has engendered. But that these people are maintaining local governments for themselves which habitually defeat the object of all government and render their own lives and property insecure, is in itself utterly improbable, and the statement of the bill to that effect is not supported by any evidence which has come to my knowledge. All the information I have on the subject convinces me that the masses of the southern people and those who control their public acts, while they entertain diverse opinions upon 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 as completely as their circumstances will permit.

The bill, however, would seem to show upon its face that the establishment of peace and good order is not its real object. The fifth section declares that the preceding sections shall cease to operate in any State where certain events shall have happened. These events are—First, the selection of delegates to a State Convention by an election at which negroes shall be allowed to vote. Second, the formation of a State Constitution by the Convention so chosen. Third, the insertion into the State Constitution of a provision which will secure the right of voting at all elections to negroes, and to such white men as may not be disfranchised for rebellion or felony. Fourth, the submission of the Constitution to Congress for examination and approval, and the actual approval of it by that body. Sixth, the adoption of a certain amendment to the Federal Constitution by a vote of the Legislature elected under the new Constitution to Congress for examination and approval.

The ten States named in the bill are divided into five districts. For each district an officer is appointed of the Army, not below the rank of brigadier general, to be appointed to rule over the people, and he is to be supported by an efficient military force to enable him to perform his duties and enforce his authority. Those duties and that authority, as defined by the third section of the bill, are, to preserve the 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 or criminals. The power thus given to the commanding officer over all the people of each district is that of an absolute monarch. His mere will is to take the place of all law.

The law of the States is now the only rule applicable to the subjects placed under his control, and that is completely displaced by the clause which declares all interference of State authority to be null and void. He alone is permitted to determine what are rights of person or property, and he may protect them in such way as in his discretion may seem proper. It places at his free disposal all the lands and goods in his district, and he may distribute them without let or hindrance to whom he pleases. Being bound by no State law, and there being no other law to regulate the subject, he may make a criminal
code of his own; and he can make it as bloody as any recorded in history, or he can reserve the privilege of acting upon the impulse of his private passions in each case that arises. He is bound by no rules of evidence; there is indeed no provision by which he is authorized or required to take any evidence at all. Everything is a crime which he chooses to call so, and all persons are condemned. Even his proneness to be guilty. He is not bound to keep any record, or make any report of his proceedings. He may arrest his victims wherever he finds them, without warrant, accusation, or proof of probable cause. If he gives them a trial before he inflicts the punishment, he gives it of his grace and mercy, not because he is commanded so to do.

To a casual reader of the bill, it might seem that the military commander was given power to persons accused of crime; but such is not the case. The officer "may allow local civil tribunals to try offenders," but of course this does not require that he shall do so. If any State or Federal court presumes to exercise its legal jurisdiction by the trial of a malefactor without his special permission, he can break it up, and punish the judges and jurors himself as being themselves malefactors. He can save his friends from justice, and despoil his enemies contrary to justice.

It is also provided that "he shall have power to organize military commissions," but this power he is not commanded to exercise. It is merely permissive, and is to be used only "when in his judgment it may be necessary for the trial of offenders," but of course this does not require that he shall do so. If any State or Federal court presumes to exercise its legal jurisdiction by the trial of a malefactor without his special permission, he can break it up, and punish the judges and jurors as being themselves malefactors. He can save his friends from justice, and despoil his enemies contrary to justice.

Several provisions, dictated by the humanity of Congress, have been inserted in the bill, apparently to restrain the power of the commanding officer; but it seems to me that they are of no avail for that purpose. The fourth section provides—First. That trials shall not be unnecessarily delayed; but I think I have shown that the power is given to punish without trial, and if so, this provision is practically inoperative. Second. Cruel or unusual punishment is not to be inflicted but who is to decide what is cruel and what is unusual? The words have acquired a legal meaning by long use in the courts. Can it be expected that military officers will understand and follow a rule expressed in language so purely technical, and not pertaining in the least degree to their profession? If not, then each officer may define cruelty according to his own temper, and if it is not unusual, he will make it usual. Corporal punishment, imprisonment, the gag, the ball and chain, and the almost insupportable forms of torture invented for military purposes, are within the range of choice. Third. The sentence of a commission is not to be executed without being approved by the commander, if it affects life or liberty, and a sentence of death must be approved by the President. This applies to cases in which there has been a trial and sentence. I take it to be clear, under this bill, that the military commander may condemn to death without even the form of a trial by a military commission, so that the life of the condemned may depend upon the will of two men instead of one.

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 by any monarch in England for more than five hundred years. In all that time no people who speak the English language have borne such a power as this bill gives to the military officers over both white and colored persons.

It may be answered to me that the officers of the Army are too magnanimous, just, and humane to oppress and trample upon a subjugated people. I do not doubt that Army officers are as well entitled to commissions or tribunals as any other class of men. But the history of the world has been written in vain, if it does not teach us that unrestrained authority can never be safely trusted in human hands. It is almost sure to be more or less abused under any circumstances, and it has always resulted in gross tyranny where the rulers who exercise it are strangers to their subjects, and come among them as the representatives of a distant power, and more especially when the power that sends them is un­friendly. Governments closely resembling that here proposed have been fairly tried in Hungary and Poland, and the suffering endured by those people roused the sympathies of the entire world. It was tried in Ireland, and, though tempered at first by principles of English law, it gave birth to cruelties so atrocious that they are never recounted without just indignation. The French Convention armed its deputies with this power, and sent them to the southern departments of the republic. The massacres, murders, and other atrocities which they committed show what the passions of the ablest men in the most civilized society will tempt them to do when wholly unrestrained by law.

The men of our race in every age have struggled to tie up the hands of their Governments and keep them within the law, because their own experience of all manner of power taught them that rulers could not be relied on to concede those rights which they were not legally bound to re­spect. The head of a great empire has sometimes governed it with a mild and paternal sway, but the kindness of an irresponsible deputy never yields what the law does not extort from him. Between such a master and the people subjected to his domination there can be no liberty, but slavery: he punishes them if they resist his authority, and, if they submit to it, he hates them for their servility.
I come now to a question which is, if possible, still more important. Have we the power to establish and carry into execution a measure like this? I answer, certainly not, if we derive our authority from the Constitution, and if we are bound by the limitations which it imposes.

This proposition is perfectly clear—that no branch of the Federal Government, executive, legislative, or judicial, can have any just powers except those which it derives through and exercises under the organic law of the Union. Over all the States we have no legal authority more than private citizens, and within it we have only so much as that instrument gives us. This broad principle limits all our functions, and establishes the rights of the citizens of States which are within the Union, but it shields every human being who comes or is brought under our jurisdiction. We have no right to do in one place, more than in another, that which the Constitution says we shall not do at all. If, therefore, the States were in truth out of the Union, we could not treat their people in a way which the fundamental law forbids.

Some persons assume that the success of our arms in crushing the opposition which was made in some of the States to the execution of the Federal laws reduced those States and all their people—the innocent as well as the guilty—to the condition of vassalage, and gave us a power over them which the Constitution does not bestow or define or limit. No fallacy can be more transparent than this. Our victories subjected the insurgents to legal obedience, not to the yoke of an arbitrary despotism. When an absolute sovereign reduces his rebellious subjects, he may deal with them according to his pleasure, because he had that power before. But when a limited monarch puts down an insurrection, he must do so in accordance to law. If an insurrection should take place in one of our States against the authority of the State government, and end in the overthrow of those who planned it, would that take away the rights of all the people of the counties where it was favored by a part or a majority of the population? Could they, for such a reason, be wholly outlawed and deprived of their representation in the Legislature? I have always contended that the Government of the United States was sovereign within its constitutional sphere; that it executed its laws, like the States themselves, by applying its coercive power directly to individuals; and that it could put down insurrection with the same effect as a State, and no other. The opposite doctrine is the worst heresy of those who advocated secession, and cannot be agreed to without admitting that heresy to be right.

Conscription, insurrection, rebellion, and domestic violence were anticipated when the Government was framed, and the means of repelling and suppressing them were wisely provided for in the Constitution; but it was not thought necessary to declare that the States in which they might occur should be expelled from the Union. Rebellions, which were invariably suppressed, occurred prior to that out of which these questions grow; but the States continued to exist and the Union remained unbroken. In Massachusetts, in Pennsylvania, in Rhode Island, and in New York, at different periods in our history, violent and armed opposition to the United States was carried on; but the relations of those States with the Federal Government were not supposed to be interrupted or changed thereby, after the rebellious portions of their population were defeated and put down. It is true that in these earlier cases there was no formal expression of a determination to withdraw from the Union, but it is also true that in the southern States the ordinances of secession were treated by all the friends of the Union as mere nullities, and are now acknowledged to be so by the States themselves. If we admit that any sort of war or insurrection is threat­ened, the national Constitution is everywhere in force and everywhere obeyed. What, then, is the ground on which this bill proceeds? The title of the bill announces that it is intended "for the more efficient government" of the ten States. It is recited by way of preamble that no legal State governments "nor adequate protection for life or property," exist in those States, and that peace and good order should be that enforced. The first thing which arrests attention upon these recitals, which prepare the way for martial law, is this: that the only foundation upon which martial law can lawfully be enforced, is that any form of government is not stated or so much as pretended. Actual war, foreign invasion, domestic insurrection—none of these appear; and none of these in fact exist. The second recited item is to the effect that any sort of war or insurrection is threatened. Let us pause here to consider, upon this question of constitutional law and the power of Congress, a recent decision of the Supreme Court of the United States in *ex parte Milligan*.

I will first quote from the opinion of the majority of the Court: "Martial law cannot arise from a threatened invasion. The necessity must be actual and present, the invasion real, such as effectually closes the courts and deposes the civil administration." We see that martial law comes in only when actual war closes the courts and deposes the civil authority; but this bill, in time of peace, makes martial law operate as though we were in actual war, and becomes the cause, instead of the consequence of the abroga­tion of civil authority. One more quotation: "It follows from what has been said on this subject that there are occasions when martial law can be properly applied. In foreign invasion or civil war, the courts are actually closed, and
it is impossible to administer criminal justice according to law, then, on the theatre of active military operations, where war really prevails, there is a necessity to furnish a substitute for the civil authority thus overthrown, to preserve the safety of the Army and society; and as no power is left but the military, it is allowed to govern by martial rule until the laws can have their free course."

I now proceed from the opinion of the minority of the Court, delivered by Chief Justice Chase: "We by no means assert that Congress can establish and apply the laws of war where no war has been declared or exists. Wherever exists, the laws of peace must prevail." This is sufficiently explicit. Peace exists in all the territory to which this bill applies. It asserts a power in Congress, in time of peace, to set aside the laws of peace and to substitute the laws of war. The minority, concurring with the majority, declares that Congress does not possess that power. Again, and, if possible, more emphatically, they observe, with remarkable clearness and condensation, sum up the whole matter as follows:

"There are under the Constitution three kinds of military jurisdiction— one to be exercised both in peace and war, another to be exercised in time of foreign war without the boundaries of the United States, or in time of rebellion and civil war within States or districts occupied by rebels treated as belligerents; and a third to be exercised in time of invasion or insurrection within the limits of the United States, or for rebelling therein. Within the limits of the States not maintaining adherence to the national Government, when the public danger requires its exercise. The first of these may be called jurisdiction under MILITARY LAW, and is found in acts of Congress prescribing rules and articles of war, or otherwise providing for the government of the national forces; the second may be distinguished as MILITARY GOVERNMENT, supposing, as far as may be deemed expedient, the local law, and exercised by the military commander, under the direction of the President, with the express or implied sanction of Congress; while the third may be denominated MILITARY LAW PROPER, and is called into action by Congress, or insurrection, or invasion, or civil or foreign war, within districts or localities where ordinary law no longer adequately secures public safety and private rights."

It will be observed that of the three kinds of military jurisdiction which can be exercised or created under our Constitution, there is but one that can prevail in time of peace, and that is the code of laws enacted by Congress for the government of the national forces. That body of military law has no application to the citizen, not even to the citizen soldier enrolled in the militia, in time of peace. But this bill is not a part of that code of military law, for that applies only to the soldier and not to the citizen, whilst, contrariwise, the military law provided by this bill applies only to the citizen and not to the soldier.

I need not say to the Representatives of the American people that their Constitution forbids the exercise of judicial power in any way but one; that is, by the ordained and established courts. It is equally well known that in all crimes against the most solemn oaths, and even to the life of the nation, the only power by which is made indispensable by the express words of that instrument, I will not enlarge on the inestimable value of the right thus secured to every freeman, or speak of the honor of every part of the country which must ensue from a denial of it anywhere or upon any pretense. A very recent decision of the Supreme Court has traced the history, vindicated the dignity, and made known the value of this great privilege so clearly that nothing more is needed. To what extent a violation of it might be excused in time of war or public danger may admit of discussion; but we are providing now for a time of profound peace, where there is not an armed soldier within our borders except those who are in the service of the Government. It is in such a condition of things that an act of Congress is proposed which, if carried out, would deny a trial by the lawful courts and juries to nine millions of American citizens, and to their posterity for an indefinite period. It seems to be scarcely possible that any one should seriously believe this consistent with a Constitution which declares, in simple, plain, and unambiguous language, that all persons shall have that right, and that no person shall ever in any case be deprived of it. The Constitution also forbids the arrest of the citizen without judicial warrant, founded on probable cause. This bill authorizes an arrest without warrant, at the pleasure of a military commander. The Constitution declares that "no person shall be held to answer for a capital or otherwise infamous crime unless on presentment by a grand jury." This bill holds every person, not a soldier, answerable for all crimes and all charges without any presentment. The Constitution declares that "no person shall ever in any case be deprived of life, liberty, or property without due process of law." This bill sets aside all process of law, and makes the citizen answerable in his person and property to the will of one man, and as to his life to the will of two. Finally, the Constitution declares that "the privilege of the writ of habeas corpus shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it;" whereas this bill declares martial law (which of itself suspends this great right) in time of peace, and authorizes the military to make the arrest, and gives to the prisoner only one privilege, and that is a trial "without unnecessary delay." He has no hope of release from custody, except the hope, such as it is, of release by acquittal before a military commission.

The United States are bound to guarantee to each State a republican form of government. Can it be pretended that this obligation is not palpably broken if we carry out a measure like this, which wipes away every vestige of republican government in ten States, and puts the life, property, liberty, and honor of all the people in each of them under the domination of a single person clothed with unlimited authority? The Parliament of England, exercising the omnipotent power which it claimed, was accustomed to pass bills of attainder; that is to say, it would convict men of treason and other crimes by legislative enactment. The person accused had a hearing, sometimes a patient and fair one; but generally party prejudice prevailed, instead of justice. It often became necessary for Parliament to acknowledge its error and reverse its own action. The fathers of our country determined that no such thing should be allowed here. They withheld the power from Congress, and thus forbade its exercise by that body; and they pro-
enced in the Constitution that no State should pass any bill of attainder. It is, therefore, impossible for any person in this country to be constitutionally convicted or punished for any crime by a legislative proceeding of any sort. Nevertheless, there is a bill of attainder against nine millions of people at once. It is based upon an accusation so vague as to be scarcely intelligible, and found to be true upon no credible evidence. No one of the nine million had been heard of in his own defense. The representatives of the doomed parties were excluded from all participation in the trial. The conviction is to be followed by the most ignominious punishment ever inflicted on large masses of men. It disfranchises them by hundreds of thousands, and degrades them all, even those who are admitted to be guiltless from the rank of freemen to the condition of slaves.

The purpose and object of the bill, the general intent which pervades it from beginning to end, is to change the structure and character of the State governments, and to compel them by force to the adoption of organic laws and regulations which they are unwilling to accept if left to themselves. 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 strips it from 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 afterwards 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.

This bill imposes martial law at once, and its operations will begin so soon as the general and his troops can be put in place. The dread alternative between its harsh rule and compliance with the terms of this measure is not suspended, nor are the people afforded any time for free deliberation. The bill says to them, take martial law first, then deliberate. And when they have done all that this measure requires them to do, other conditions and contingencies, over which they have no control, yet remain to be fulfilled before further can be relieved from martial law.

Another Congress must first approve the Constitution made in conformity with the will of this Congress, and must declare these States entitled to representation in both Houses. The whole question thus remains open and unsettled, and must again occupy the attention of Congress, and in the meantime the agitation which now prevails will continue to disturb all portions of the people.

The bill also denies the legality of the governments of ten of the States which participated in the ratification of the amendment to the Federal Constitution abolishing slavery forever within the jurisdiction of the United States, and practically excludes them from the Union. If this assumption of the bill be correct, their concurrence cannot be considered as having been legally given, and the important fact is made to appear that the consent of three-fourths of the States—the requisite number—has not been constitutionally obtained to the ratification of that amendment, thus leaving the question of slavery where it stood before the amendment was officially declared to have become a part of the Constitution.

That the measure proposed by this bill does violate the Constitution in the particulars mentioned, and in many other ways which I forbear to enumerate, is too clear to admit of the least doubt. It only remains to consider whether the injunctions of that instrument ought to be obeyed or not. I think they ought to be obeyed, for reasons which I will proceed to give as briefly as possible.

In the first place, it is the only system of free government which we can hope to have as a nation. When it ceases to be the rule of our conduct, we may perhaps take our choice between complete anarchy, a consolidated despotism, and a total dissolution of the Union; but national liberty, regulated by law will have passed beyond our reach.

It is the best frame of government the world ever saw. No other is or can be so well adapted to the genius, habits, or wants of the American people. Combining the strength of an empire with unspeakable blessings of local self-government, having a central power to defend the general interests, and recognizing the authority of the States as the guardians of industrial rights, it is "the sheet-anchor of our safety abroad and our peace at home." It was ordained "to form a more perfect union, establish justice, secure domestic tranquillity, promote the general welfare, provide for the common defense, and secure the blessings of liberty to ourselves and our posterity." These great ends have been attained heretofore, and will be again, by faithful obedience to it; but they are certain to be lost if we treat with disregard its sacred obligations.

It was to punish the gross crime of defying the Constitution, and to vindicate its supreme authority, that we carried on a bloody war of four years' duration. Shall we now acknowledge that we sacrificed a million of lives and expended billions of treasure to enforce a Constitution which is not worthy of respect and preservation? Those who advocated the right of secession alleged in their own justification that we had no regard for law, and that their rights of property, life, and liberty would not be safe under the Constitution, as administered by us. If we now verify their assertion, we prove that they were in truth and in fact fighting for their liberty, and instead of branding their leaders with the dishonoring name of traitors against a righteous and legal Government, we elevate them in history to the rank of self-sacrificing patriots, consecrate them to the admiration of the world, and place them by the side of Washington, Ilamp-
den, and Sydney. No; let us leave them to the
infamy they deserve, punish them as they should
be punished, according to law, and take upon
ourselves no share of the odium which they
should bear alone.

It is a part of our public history, which can
never be forgotten, that both Houses of Congress,
in July, 1861, declared, in the form of a solemn
resolution, that the war was and should be car-
ried on for no purpose of subjugation, but solely
to enforce the Constitution and laws; and that
whom we are at present contending against, in
rebellion, the contest should cease, with the constitu-
tional rights of the States and of individuals
unimpaired. This resolution was adopted and
sent forth to the world unanimously by the Sen-
ate, and with only two dissenting voices in the
House. It was accepted by the friends of the
Union in the South, as well as in the North, as
expressing honestly and truly the object of the
work of restoration should be accomplished by
our plighted honor for which I can imagine
no excuse, and to which I cannot voluntarily
become a party.

The evils which spring from the unsettled
state of our Government will be acknowledged
by all. Commercial intercourse is impeded, capi-
tal is in constant flight, public securities fluctuate
in value, peace itself is not secure, and the sense
of moral and political duty is impaired. To
avert these calamities from our country, it is
imperatively required that we should immedi-
ately decide upon some course of administration
I am thoroughly convinced that any settlement, or
compromise, or plan of action which is insis-
tent with the principles of the Constitution
will not only be unavailing, but mischievous;
that it will but multiply the present evils, in-
stead of removing them. The Constitution, in
its whole integrity and vigor, throughout the
length and breadth of the land, is the best of all
remedies that is so much needed, and that if the
coor-dinate branches of the Government would
unite upon its provisions, they would be real-
ized in full strength and sufficient to sustain in
time of peace the nation which they bore safely
through the ordeal of a protracted civil war.
Among the most sacred guaranties of that in-
strument are those which declare that "each
State shall have at least one Representative," and
that "no State, without its consent, shall be
deprived of its equal suffrage in the Senate." Each
House is made the "judge of the elections,
returns, and qualifications of its own members,"
and may, "with the concurrence of two-thirds,
expe]l a member. Thus, as heretofore urged,
in the admission of Senators and Representatives
from any and all of the States, there can
be no just ground of apprehension that persons
who are disloyal will be clothed with the powers
of legislation; for this could not happen when
the Constitution and the laws are enforced by a
vigilant and faithful Congress." "When a Sena-
tor or Representative presents his certificate of
election, he may at once be admitted or rejected;
or, should there be any question as to his eligi-
bility, his credentials may be referred for investi-
gation to the appropriate committee. If admit-
ted to a seat, it must be upon evidence satisfac-
tory to the House of its present boundaries, and returned to his constitu-
tents, they are admonished that none but persons
loyal to the United States will be allowed a
voice in the legislative councils of the nation,
and the political power and moral influence of
Congress are thus effectively exerted in the in-
terests of loyalty to the Government and fidelity
to the Union." And is it not far better that the
work of restoration should be accomplished by
simple compliance with the plain requirements
of the Constitution, than by a recourse to mea-
asures which in effect destroy the States, and
threaten the subversion of the General Govern-
ment? All that is necessary to settle this simple
but important question, without further agita-
tion or delay, is a willingness on the part of all
to sustain the Constitution and carry its pro-
visions into practical operation. If Congress
were to declare that, upon the presentation of their credentials, mem-
bers constitutionally elected and loyal to the
General Government were to be admitted to seats
in Congress, while all others would be excluded,
and their places remain vacant until the selection
by the people of loyal and qualified persons; and
if, at the same time, assurance were given that
this policy would be continued until all the States
were represented in Congress, it would send a
thrill of joy through the entire land, as indi-
cating the inauguration of a system which must
speedily bring tranquillity to the public mind.

While we are legislating upon subjects which
are of great importance to the whole people, and
which must affect all parts of the country, not
only during the life of the present generation,
but for ages to come, we should remember that
all men are entitled at least to a hearing in the
courts which decide upon the fate of them-
selves and their children. At present ten States
are denied representation, and when the Forty-
th Congress assembles on the fourth day of the
present month, sixteen States will be without a
voice in the House of Representatives. This
grave fact, with the important questions before
us, should induce us to pause in the course of
legislation which, looking solely to the attain-
ment of political ends, fails to consider the rights
it transgresses, the law which it violates, or the
institutions which it imperils.

ANDREW JOHNSON.

WASHINGTON, March 2, 1867.
The votes on this bill were as follow:

In House.

1867, February 20-The bill passed finally, as
above—Yea 125, Nays 46, as follow:

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This is not quite accurate. There were five negative votes in the Senate. (See Senate Journal, 1st Sess. 39th Con-
gress, pages 92.)


Same day—The Senate passed the bill—yeas 35, nays 7, as follows:


Same day—The House re-passed the bill—yeas 138, nays 51, as follows:


Whereupon the President of the Senate declared the bill to be a law.

Veto of the Civil Tenure Bill, March 2, 1867.

To the Senate of the United States:

I have carefully examined the bill "to regulate the tenure of certain civil offices. The material portion of the bill is contained in the first section, and is of the effect following, namely:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office shall become duly qualified to act therein, and shall be entitled to hold such office until such successor shall have been appointed by the President, with the advice and consent of the Senate, and duly qualified; and that the Secretaries of State, of the Treasury, of the Navy, and of the Interior, and the President of the Senate, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

These provisions are qualified by a reservation in the fourth section, "that nothing contained in the bill shall be construed to extend the term of any office the duration of which is limited by law." In effect the bill provides that the President shall not remove from their places any of the civil officers whose terms of service are not limited by law, without the advice and consent of the Senate of the United States. The bill in this respect conflicts, in my judgment, with the Constitution of the United States.

The question, as Congress is well aware, is by no means a new one. That the power of removal is constitutionally vested in the President of the United States is a principle which has been uniformly declared by judicial authority and judicial commentators than it has been uniformly practiced upon by the legislative and executive departments of the Government. The question arose in the House of Representatives so early as the 16th of June, 1789, on the bill for establishing an executive department designated as "The Department of Foreign Affairs." The first clause of the bill, after recapitulating the functions of that officer and defining his duties, had these words: "to be removable from office by the President of the United States." It was moved to strike out these words, and the motion was sustained with great ability and vigor. It was insisted that the President could not constitutionally exercise the power of removal absolutely; that the power was declared to the Senate; that the President could not constitutionally exercise the power of removal, either expressly or by strong implication, but, on the contrary, had distinctly provided for removal from office by impeachment only.

A construction which denied the power of removal by arguments drawn from the danger of the
abuse of the power; from the supposed tendency of an exposure of public officers to capricious removal to impair the efficiency of the civil service; from the alleged injustice and hardship of displacing incumbents dependent upon their official stations, without sufficient consideration; from a supposed want of responsibility on the part of the President; and from an imagined defect of guaranties against a vicious President who might incline to abuse the power. On the other hand, an exclusive power of removal by the President was defended as a true exposition of the text of the Constitution. It was maintained that there are certain causes for which persons ought to be removed from office without being guilty of treason, bribery, or malfeasance, and that the nature of things demands that it should be so. "Suppose," it was said, "a man becomes insane by the visitation of God, and is likely to ruin the affairs of the Government to be confined from wading off the evil? Suppose a person in office, not possessing the talents he was judged to have at the time of the appointment, in the errp not to be corrected? Suppose he acquires vicious habits and incollable indulgence, or total neglect of the duties of his office, which shall work mischief to the public welfare, is there no way to arrest the threatened danger? Suppose he becomes odious and unpopular, by reason of the measures he pursues—and this he may do without committing any positive offense against the law—must he preserve his office in despite of the popular will? Suppose him grasping for his own aggrandizement and the elevation of his connections by every means short of the treason defined by the Constitution, bureauvizing your affairs to the precipice of destruction, endangering your domestic tranquillity, plundering you of the means of defense, alienating the affection of your allies, and promoting the spirit of discord; must the tardy, the tedious, the desultory road by way of impeachment be travelled to overtake the man who, barely confining himself within the letter of the law, is employed in drawing off the vital principle of the Government? The nature of things, the great objects of society, the express objects of the Constitution itself, require that this thing should be otherwise. To unite the Senate with the President in the exercise of the power," it was said, "would involve us in the most serious difficulty. Suppose a discovery of any of those events should take place when the Senate is not in session, how is the remedy to be applied? The evil could be avoided in no other way than by the Senate sitting always. In regard to the danger of the power being abused if exercised by one man, it was said "that the danger is as great with respect to the Senate, who are assembled from various parts of the continent, with different interests and opinions," and that there is more liability to abuse the power of removal than the man whom the united voice of America calls to the presidential chair. As the nature of government requires the power of removal, it was maintained that it should be exercised in this way by the hand capable of exerting itself with effect; and the power must be conferred on the President by the Constitution, as the executive officer of the Government."

Mr. Madison, whose adverse opinion in the Federalist had been relied upon by those who denied the exclusive power, now participated in the debate. He declared that he had reviewed his former opinions, and he summed up the whole case as follows:

"The Constitution requires that the executive power be vested in the President. Are there exceptions to this proposition? Yes, there are. The Constitution says that in appointing to office the Senate shall be associated with the President, unless in the case of inferior offices, when the law shall otherwise direct. Have we (that is, Congress) a right to extend this exception? I believe not. If the Constitution has invested all executive power in the President, I venture to assert that the legislature has no right to diminish or modify his executive authority. The question now resolves itself into this: Is the power of displacing an executive officer an executive power? I conceive that if any power whatever is in the executive it is the power of appointing, controlling those who execute the laws. If the Constitution had not qualified the power of the President in appointing to office by associating the Senate with him in that business, would not it be clear that he would have the right, by virtue of his executive power, to make such appointments? Should we be authorized, in defiance of that clause in the Constitution? The executive power shall be vested in the President to unite the Senate with the President in the appointment of persons. Suppose," it was said, "a man in office, not possessing the talents he was judged to have at the time of his appointment to office, which shall work mischief to the public welfare, is there no way to arrest the threatened danger? Suppose the Senate in the President's power being abused if exercised by one man, it was supposed that any power whatsoever was excepted out of the general rule established by the Constitution in these words: 'The executive power shall be vested in the President, and in the Senate by the casting vote of the Vice President."

The question thus ably and exhaustively argued was decided by the House of Representatives, by a vote of thirty-four to twenty, in favor of the principle that the power to remove officers appointed to office is vested by the Constitution in the Executive, and in the Senate by the casting vote of the Vice President. The question raisa in subsequent times of high excitement, and the practice of the Government has nevertheless conformed in all cases to the decision thus early made. The question was revived during the administration of President Jackson, as it was well recollected, a very large number of removals, which were made an occasion of close and rigorous scrutiny and remonstrance. The subject was long and earnestly discussed in the Senate, and the early construction of the Constitution was nevertheless freely accepted as binding and conclusive upon Congress. The question came before the Supreme Court of the United States in January, 1839, ex parte Heenan. It was declared by the Court on that occasion, that the power of removal from office was a subject much disputed, and upon which a great diversity of opinion was entertained in the early history of the Government. This related, however, to the power of the President to remove officers appointed to him by the President, and not the power of the President and Senate jointly to remove where the tenure of the office was not fixed by the Constitution, which was a full recognition of the principle that the power of removal was incident to the power of appointment; but it was very early adopted as a practical construction of the Constitution, that this power was vested in the President alone; and such would appear to have been the legislative con-
abduction of the Constitution, for in the organization of the three great Departments of State, War, and Treasury, in the year 1789, provision was made for the appointment of a subordinate officer by the head of the Department, who should have charge of the records, books, and papers appertaining to the office when the head of the
Department should be removed from office by the President of the United States. When the Navy Department was established, in the year 1798, provision was made for the charge and custody of the books, records, and documents of the Department in case of vacancy in the office of Secretary by removal or otherwise. It is not here said "by removal of the President," as is done with respect to the heads of the other Departments, yet there can be no doubt that he holds his office with the same tenure as the other Secretaries, and is removable by the President. The change of phraseology arose, probably, from its having become the settled and well-understood construction of the Constitution that the power of removal was vested in the President alone in such cases, although the appointment of the officer is by the President and Senate. (13 Peters, page 135.)

Our most distinguished and accepted commentators upon the Constitution concur in the conclusion thus early given by Congress; and thus sanctioned by the Supreme Court. After a full analysis of the congressional debate to which I have referred, Mr. Justice Story comes to this conclusion: "After a most animated discussion, the vote finally taken in the House of Representatives was affirmative of the power of removal in the President, without any co-operation of the Senate, by the vote of thirty-four members against twenty. In the Senate, the clause in the bill affirming the power was carried by the casting vote of the Vice President. That the final decision of this question so made was greatly influenced by the exalted character of the President then in office, and has always been believed, yet the doctrine was opposed as well as supported by the highest talents and patriotism of the country. The public have acquiesced in this decision, and it constitutes, perhaps, the most extraordinary case in the history of the Government of a power conferred by implication on the Executive by the assent of a bare majority of Congress, which has not been questioned on any other occasions." The commentator adds: "Nor is this general acquiescence and silence without a satisfactory explanation."

Chancellor Kent’s remarks on the subject are as follows:

"On the first organization of the Government it was made a question whether the power of removal in case of officers appointed to hold at pleasure resided nowhere but in the body which appointed, and, of course, whether the consent of the Senate was not requisite to remove. This was the construction given to the Constitution while it was pending for ratification before the State conventions, by the authors of the Federalist. But the construction which was given to the Constitution by Congress, after great consideration and discussion, was different. The words of the act (establishing the Treasury Department) are: ‘And whenever the same shall be removed from office by the President of the United States, or in case of vacancy in the office, the assistant shall act.’ This amounted to a legislative construction of the Constitution, and it has ever since been acquiesced in and acted upon as a deliberate austerity in the case. It applies equally to every other officer of the Government appointed by the President, whose term of duration is not specially declared. It is supported by the weighty reason that the subordinate officers in the executive department ought to hold at the pleasure of the head of the department, because he is invested generally with the executive authority, and the participation in that authority by the Senate was an exception to a general principle and ought to be taken strictly. The President is the great responsible officer for the faithful execution of the law, and the power of removal was incidental to that duty, and might often be requisite to fulfill it."

This has the important question presented by this bill been settled, in the language of the late Daniel Webster, (who, while dissenting from it, admitted that it was settled) by construction, settled by precedent, settled by the practice of the Government, and settled by statute. The events of the last war furnished a practical confirmation of the wisdom of the Constitution as it has hitherto been maintained, in many of its parts, including that which is now the subject of consideration. When the war broke out, rebel enemies, traitors, abettors, and sympathizers, were found in every Department of the Government, as well as in the civil service in the land and naval military service. They were found in Congress and among the keepers of the Capitol; in foreign missions; in each and all of the executive Departments; in the judicial service; in the post office, and among the agents for conducting Indian affairs. Upon probable suspicion they were promptly displaced by my predecessor, as far as they held their offices under executive authority, and their duties were confided to new and loyal successors. No complaints against that power or doubts of its wisdom were entertained in any quarter. I sincerely trust and believe that no such civil war is likely to occur again. I cannot doubt, however, that in whatever form, and on whatever occasion, sedition can raise an effort to hinder, or embarrass, or defeat, the legitimate action of this Government, whether by preventing the collection of revenue, or disturbing the public peace, or separating the States, or betraying the country to a foreign enemy, the power of removal from office, given by the Executive, as it has heretofore existed and been practiced, will be found indispensable. Under these circumstances, as a depository of the executive authority of the nation, I do not feel at liberty to unite with Congress in reversing it by giving my approval to the bill. At the early day when this question was settled, and, indeed, at the several periods when it has subsequently been agitated, the success of the Constitution of the United States, as a new and peculiar system of free representative government, was doubted in other countries, and was even a subject of patriotic apprehension among the American people themselves. A trial of nearly eighty years, through the vicissitudes of foreign conflicts and of civil war, is confidently regarded as having extinguished all such doubts and apprehensions for the future. During that eighty years the people of the United States have enjoyed a measure of security, peace, prosperity, and happiness never surpassed by any nation. It cannot be doubted that the triumphant success of the Constitution is due to the wisdom’s wisdom with which the functions of government were distributed between the three principal Departments—the legislative, the executive, and the judicial—and to the fidelity with which each
AN ACT regulating the tenure of certain civil offices.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is, and shall be, entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: Provided, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for one year, and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate; and in such case it shall be the duty of the President, within twenty days after the first day of such next meeting of the Senate, to report to the Senate such suspension, with the evidence and reasons for his action in the case and the name of the person so designated to perform the duties of such office. And if the Senate shall concur in such suspension, and advise and consent to the removal of such officer, they shall forthwith remove such officer, and designate another person to such office. But if the Senate shall refuse to concur in such suspension, and shall advise and consent to the removal of such officer, they shall forthwith remove such officer, and designate another person to such office.

Washington, March 2, 1867.

ANDREW JOHNSON.

Copy of the Bill Vetosed.

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Washington, March 2, 1867.

ANDREW JOHNSON.
and duties belonging to such office shall be exercised by such other officer as may be by law exercised such powers and duties in case of a vacancy in such office.

Sect. 4. That no money shall be paid or received or retained out of any public moneys or funds of the United States, whether in the Treasury or not, to or by or for the benefit of any person appointed or authorized to act in or holding or exercising the duties or functions of any office contrary to the provisions of this act; nor shall any claim, account, voucher, order, certificate, warrant, or other instrument providing for or relating to such payment, receipt, or retention, be presented, passed, allowed, approved, certified, or paid by any officer of the United States, or by any person exercising the functions or performing the duties of any office or place of trust under the United States, for or in respect to such office, or the exercising or performing the functions or duties thereof; and every person who shall violate any of the provisions of this section shall be deemed guilty of a high misdemeanor, and, upon trial and conviction thereof, shall be punished therefor by a fine not exceeding ten thousand dollars, or by imprisonment not exceeding ten years, or both said punishments, in the discretion of the court.

The votes on this bill were:

February 12—The Senate passed it, as agreed upon by a committee of conference—yeas 22, nays 10, as follow:


February 13—The House passed it—yeas 112, nays 41, as follow:


March 2—The bill was vetoed.

Same day—The Senate re-passed it—yeas 55, nays 11, as follow:


Same day—The House re-passed it—yeas 138, nays 40, as follow:


To the House of Representatives:

The act entitled "An act making appropriations for the expenses of the Army for the year ending June 30, 1868, and for other purposes," contains provisions to which I must call attention. These provisions are contained in the second section, which in certain cases virtually deprives the President of his constitutional functions as Commander-in-Chief of the Army, and in the sixth section, which denies to ten States of the Union their constitutional right to protect themselves, in any emergency, by means of their own militia. These provisions are out of place in an appropriation act. I am compelled to defeat these provisions if I withhold my signature from the act. Pressed by these considerations, I feel constrained to return the bill with my signature, but to accompany it with my protest against the sections which I have indicated.

Andrew Johnson.

Washington, March 2, 1867.

The sections complained of are these:

Sec. 2. That the headquarters of the General of the Army of the United States shall be at the city of Washington; and all orders and instructions relating to military operations, issued by the President or Secretary of War, shall be issued through the General of the Army, and, in case of his inability, through the next in rank. The General of the Army shall not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at said headquarters, except at his own request, without the previous approval of the Senate; and any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void; and any officer who shall issue orders or instructions contrary to the provisions of this section shall be deemed guilty of a misdemeanor in office; and any officer of the Army who shall transmit, convey, or obey any order issued contrary to the provisions of this section, knowing that such orders were so issued, shall be liable to imprisonment for not less than two nor more than twenty years, upon conviction thereof in any court of competent jurisdiction.

Sec. 6. That all militia forces now organized or in service in either of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana, Mississippi, and Texas, be forthwith disbanded; and that the further organization, arming, or calling into service of the said militia forces, or any part thereof, be prohibited under any circumstances whatever, until otherwise authorized by Congress.

Whereupon the Speaker of the House declared the bill to be a law.

Message Accompanying the Approval of the Army Appropriation Bill, March 2, 1867.

To the House of Representatives:

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Andrew Johnson.

Washington, March 2, 1867.
vide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate restoration, and now return it to the House of Representatives, with my objections.*

This bill provides for elections in the ten States brought under the operation of the original act to which it is supplementary. Its details are principally directed to the elections for the formation of the State constitutions, but by the sixth section of the bill "all elections" in these States occurring while the original act remains in force are brought within its purview. Referring to the details, it will be found that, first of all, there is to be a registration of the voters. No one who has been disfranchised for participation in any rebellion, their own wishes, or voting for delegates who will faithfully reflect their sentiments.

As the delegates are to speak for the people, common justice would seem to require that they should have authority from the people themselves. No convention so constituted will in any sense represent the wishes of the inhabitants of these States; for, under the all-embracing exceptions of these laws, by a construction which the uncertainty of the clause as to disfranchisement leaves open to the boards of officers, the great body of the people may be excluded from the polls, and from all opportunity of expressing their own wishes, or voting for delegates who will faithfully reflect their sentiments.

I do not deem it necessary further to investigate the details of this bill. No considerations could induce me to give my approval to such an election law for any purpose, and especially for the great purpose of framing the constitution of a State. If ever the American citizen should be left to the free exercise of his own judgment, it is when he is engaged in the work of forming the fundamental law under which he is to live. That work is his own, and it cannot properly be taken out of his hands. All this legislation proceeds upon the contrary assumption that the people of each of these States shall have no constitution, except such as may be arbitrarily dictated by Congress and formed under the restraint of military rule. A plain statement of facts makes this evident.

In all these States there are existing constitutions, formed in the accustomed way by the people. Congress, however, declares that these constitutions are not "loyal and republican," and requires the people to form them anew. What then, in the opinion of Congress, is necessary to make the constitution of a State "loyal and republican"? The original act answers the question. It is universal negro suffrage—a question which the Federal Constitution leaves to the States themselves. All this legislative machinery of martial law, military coercion, and political disfranchisement is avowedly for the purpose, and none other. The existing constitutions of the ten States conform to the acknowledged standards of loyalty and republicanism.

Indeed, if there are degrees in republican forms of government, their constitutions are perhaps republican now than when these States—four of which were members of the original thirteen—first became members of the Union, and Congress does not now demand that a single provision of their constitutions be changed, ex-
universal suffrage for blacks as well as whites is essential, and that reference should be made to the original act, which declares "such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates." What class of persons is here meant clearly appears in the same section. That is to say, "the male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election."

Without these provisions no constitution which can be framed in any one of the ten States will be of any avail with Congress. This, then, is the test of what the constitution of a State of this Union must contain to make it republican. Meantime, but few of the States now composing the Union have republican constitutions! If, in the exercise of the constitutional guaranty that Congress secure to every State a republican form of government, universal suffrage for blacks as well as whites is a sine qua non, the work of reconstruction may as well begin in Ohio as in Virginia, in Pennsylvania as in North Carolina.

When I contemplate the millions of our fellow-citizens of the South, with no alternative left but to impose upon themselves the fearful and untried experiment of complete negro enfranchisement, and white disfranchisement it may be almost as complete, or submit indefinitely to the rigor of martial law, without a single attribute of freedom, it seems to me their condition is the most deplorable to which any people can be reduced. It is true that they have been engaged in rebellion, and that, their object being a separation of the States and a dissolution of the Union, there was an obligation resting upon each and every loyal citizen to treat them as enemies, and to wage war against their cause.

Inflexibly opposed to any movement imperilling the integrity of the Government, I did not hesitate to urge the adoption of all measures necessary for the suppression of the insurrection. After a long and terrible struggle, the efforts of the Congress were triumphantly successful, and the people of the South, submitting to the stern arbitrament, yielded forever the issues of the contest. Hostilities terminated soon after it became my duty to assume the responsibilities of the Chief Executive office of the Republic, and I at once endeavored to repress and control the passions which our civil strife had engendered, and to re-establish the rights of the Government. The war had accomplished its objects. The nation was saved, and that seminal principle of the Constitution which, from the birth of the Government, had gradually but inevitably brought on the rebellion, was totally eradicated. Then, it seemed to me, was the auspicious time to commence the work of reconciliation; then, when the people sought once more our friendship and protection, I considered it our duty generously to meet them in the spirit of charity and forgiveness, and to conquer them even more effectually by the magnanimity of the nation than by the force of its arms. I yet believe that if the policy of reconciliation then inaugurated, and which contemplated an early restoration of these people to all their political rights, had received the support of Congress, every one of these ten States, and all their people, would at this moment be fast anchored in the Union, and the great work which gave the war its sanction, and made it just and holy, would have been accomplished. Then, over all the vast and fruitful regions of the South peace and its blessing would have prevailed, while now millions are deprived of rights guaranteed by the Constitution to every citizen, and, after nearly two years of legislation, find themselves placed under an absolute military despotism. "A military republic—a Government formed on mock elections and supported daily by the sword," was nearly a quarter of a century since pronounced by Daniel Webster, when speaking of the South American States, as a "movement indeed, but a retrograde and disastrous movement from the regular and old-fashioned monarchical systems," and he added: "If men would enjoy the blessings of republican government, they must govern themselves by reason, by mutual counsel and consultation, by a sense and feeling of general interest, and by the acquiescence of the minority in the will of the majority, properly expressed; and, above all, the military must be kept according to the principles of limited sovereignty, in strict subordination to the civil authority. Wherever this lesson is not both learned and practised, there can be no political freedom. Absurd, preposterous is it, a scoff at liberty, when we daily see the right of suffrage, in strict subordination to the civil authority. Wherever this lesson is not both learned and practised, there can be no political freedom. Absurd, preposterous is it, a scoff at liberty, when we daily see the right of suffrage, and the right of suffrage to be exercised at the point of the sword."

I confidently believe that a time will come when these States will again occupy their true positions in the Union. The barrier which now seems to obstruct must yield to the force of an enlightened and just public opinion, and sooner or later unconstitutional and oppressive legislation will be effaced from our statute-books. When this shall have been consummated, I pray God that the errors of the past may be forgotten, and that once more we shall be a happy, united, and prosperous people, and that at last, after the bitter and eventful experience through which the nation has passed, we shall all come to know that our only safety is in the preservation of our Federal Constitution, and in according to every American citizen and to every State the rights which that Constitution secures.

Andrew Johnson.

Washington, March 23, 1867.

The votes on this bill were:

In House.

March 19—The test vote was on Mr. Er-

tridge's motion to table the report; which was
disagreed to—yeas 26, nays 101, as follow:

Yea—Moore, Archer, Harris, Roger, Brooks, Burr, El-

bridge, Fick, Geizachman, Hikal, Belling, Haring, Mace-

k, Marshall, Merritt, Menten, Mellick, Nicholas, Noell, 

Peirce, Randall, Robinson, Bacon, Baker, Van Auken, 

Wood—26.

Nay—Moore, Allison, Adams, Anderson, Dole, R. Ashby, James M. Archer, Baker, Baldwin, Banks, Bozeman, King-

ham, Shade, Blair, Boutwell, Brownell, Buckland, Butler,
MEMBERS OF THE CABINET OF PRESIDENT JOHNSON,
AND OF THE
THIRTY-NINTH AND FORTIETH CONGRESSES.

PRESIDENT JOHNSON'S CABINET.
Secretary of State—William H. Seward, of New York.
Secretary of the Treasury—Hugh McCulloch, of Indiana.
Secretary of War—Edwin M. Stanton, of Ohio.
Secretary of the Navy—Gideon Welles, of Connecticut.
Postmaster General—Alexander W. Randall, of Wisconsin, vice William Dennison, of Ohio, resigned July 11, 1866.
Secretary of the Interior—Orville H. Browning, of Illinois, vice James Harlan, of Iowa, resigned September 30, 1866.
Attorney General—Henry Stanbery, of Kentucky, vice James Speed, of Kentucky, resigned July 19, 1866.

THIRTIETH CONGRESS.

Second Session, December 3, 1866—March 2, 1867.

The following changes took place from the list at the First Session, as printed on pages 107 and 108 of the Manual for 1866:

SENATE.

New Hampshire—George G. Pugh, vice Daniel Clark, resigned August 9, 1866.
New Jersey—Frederick T. Frelinghuysen, vice William Wright, deceased; Alexander G. Catlett, vice John P. Stockton, seat vacated.

Tennessee—David T. Patterson (admitted July 28, 1866.) Joseph S. Fowler (admitted July 25, 1866).

Kansas—Edmund G. Ross, (qualified July 25, 1866, as successor to James H. Lane.)
Political Manual.

House of Representatives.

New York—John W. Hunter, vice James Humphrey, deceased.

Pennsylvania—Philip Johnson, died January 31, 1867.

Kentucky—Elizur Hise, vice Henry Grider, deceased; Lovell H. Rousseau elected to fill the vacancy caused by his resignation July 20, 1866; Andrew H. Ward, vice Green Clay Smith, resigned.

Tennessee—Nathaniel G. Taylor, Horace Maynard, William B. Stokes, Edmund Cooper, William B. Campbell, Samuel M. Arnett, Israel R. Hawkins, John W. Leftwich. (Messrs. Campbell, Arnett, and Hawkins qualified December 3, 1866, the others July 24 and 25, 1866.)

Nebraska—Thomas M. Marquette, (qualified March 2, 1867.)

Claimants from the Insurrectionary States—Thirty-Ninth Congress.

In Senate, same as at first session, except James B. Campbell, of South Carolina, vice John L. Manning, resigned; and David G. Barnett and G. M. Roberts, of Texas, recently chosen.

In House, J. McCaleb Wiley, of Alabama, vice George C. Freeman, deceased; and James P. Hambleton, of Georgia, vice W. T. Wofford; Texas—George W. Chilton, Benj. H. Epperson, A. M. Branch, C. Herbert. (Mr. Branch and Mr. Herbert were Representatives in the Rebel Congress.)

FORTIETH CONGRESS.

First Session. March 4-30, 1867.

Senate.

Benjamin F. Wade, of Ohio, President of the Senate, and Acting Vice President.

John W. Forney, of Pennsylvania, Secretary. Maine—Lot M. Morrill, William Pitt Fessenden.

New Hampshire—Aaron H. Cragin, James W. Patterson.

Vermont—George F. Edmunds, Justus S. Morrill.

Massachusetts—Charles Sumner, Henry Wilson.

Rhode Island—William Sprague, Henry B. Anthony.

Connecticut—James Dixon, Orris S. Ferry.


New Jersey—Frederick T. Frelinghuysen, Alexander G. Cattell.

Pennsylvania—Charles B. Buckalew, Simon Cameron.

Delaware—George Read Riddle, Willard Saulsbury.

Maryland—Reverdy Johnson, Philip Francis Thomas.

Ohio—Benjamin F. Wade, John Sherman.

Kentucky—Garrett Davis, James Guthrie.

Tennessee—David T. Patterson, Joseph S. Fowler.

Indiana—Thomas A. Hendricks, Oliver P. Morton.


Missouri—John B. Henderson, Charles D. Drake.

Michigan—Zachariah Chandler, Jacob M. Howard.

Iowa—James W. Grimes, James Harlan.


California—John Connell, Cornelius Cole.


Oregon—George H. Williams, Henry W. Corbett.

Kansas—Edmund G. Ross, Samuel C. Pomeroy.

West Virginia—Peter G. Van Winkle, Waitman T. Willey.

Nebraska—William M. Stewart, James W. Nye.


Rhode Island—Not elected.

Connecticut—Not elected.


Maryland—Hiram McCullough, Stevenson Archer, Charles E. Phelps, Francis Thomas, Frederick Stone.

Ohio—Benjamin Eggleston, Rutherford B. Hayes, Robert C. Scherr, William Lawrence.
VOTES ON POLITICAL BILLS AND RESOLUTIONS.

Repeal of Pardon by Proclamation.

1866, December 9—Mr. Etter introduced a bill, under a suspension of the rules, to repeal the thirteenth section of the act of July 17, 1862, which thirteenth section is in these words: "That before the first meeting of the next Congress, and of every subsequent Congress, the Clerk of the next preceding Congress shall make a roll of the representatives and senators who may have participated in the existing rebellion, in any State or part thereof, pardon and amnesty, with such exceptions, and at such time, and on such conditions, as he may deem expedient for the public welfare."

The bill passed—yeas 112, nays 29. The nays were:


1867, January 7—The Senate passed it—yeas 27, nays as follows:


Nay— Messrs. Clapp, Gilman, Hendricks, Johnson, Norton, Patterson, Sanbury—7

Note.—This bill became a law by reason of the failure of the President to sign, or return it with his objections, within ten days after presentation to him.

Representation of Rebel States.

1866, December 11—A bill passed, of which this is the chief section:

That before the first meeting of the next Congress, and of every subsequent Congress, the Clerk of the next preceding Congress shall make a roll of the representatives and senators who were represented in the next preceding Congress, and of such persons only, and whose residences show that they were regularly elected in accordance with the laws of their States respectively, or the laws of the United States.

The vote was—yeas 124, nays 31, as follows:

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John L. Thomas, jr., Toombs, Upton, Van Arnam, Hunt.

February 1—The bill passed—yeas 31, nays 7, as follow:

IN HOUSE.

1867, January 10—Pending the bill to amend the organic acts of the Territories.

This substitute was adopted:
That from and after the passage of this act there shall be no denial of the elective franchise in any of the Territories of the United States, nor hereafter to be organized, to any citizen thereof, on account of race, color, or previous condition of serviitude, and all acts and parts of acts, either of Congress or the legislative assemblies of said Territories, inconsistent with the provisions of this act, are hereby declared null and void.

The vote was—yeas 49, nays 7, as follow:

YEAS—Messrs. Anthony, Brown, Cowan, Doolittle, Foster, Foster, Hendricks, Nunnally, Patterson, Riddle, Williams—11.


Note.—This bill became a law by reason of the failure of the President to sign or return it with his objections, within ten days after presentation to him.

Elective Franchise in the Territories.

1867, January 10—Pending the bill to amend the organic acts of the Territories.

This substitute was adopted:
That from and after the passage of this act there shall be no denial of the elective franchise in any of the Territories of the United States, nor hereafter to be organized, to any citizen thereof, on account of race, color, or previous condition of serviitude, and all acts and parts of acts, either of Congress or the legislative assemblies of said Territories, inconsistent with the provisions of this act, are hereby declared null and void.

The vote was—yeas 48, nays 1, as follow:


NAYs—Messrs. Bridge, Buckalew, Cattell, Chandler, Conn, Conn, Doolittle, Edwards, Emerson, Fogg, Foster, Foster, Graves, Harris, Henderson, Howe, Johnson, Kirkwood, Lane, Morgan, Merrill, Moses, Nickerson, Page, Shank, Shew, Starr, Sumner, Thomas, Van Winkle, Williams, Wilson—1.

Mr. Dixon moved to add to first section this proviso:
"That no person who has not herebefore voted in this District shall be permitted to vote, unless he shall be able at the time of offering to vote, to read, and also to write his own name."

Which, December 13, was lost—yeas 11, nays 34, as follow:

YEAS—Messrs. Anthony, Buckalew, Doolittle, Doolittle, Foster, Hendricks, Nunnally, Patterson, Riddle, Williams—11.

NAYs—Messrs. Brown, Cattell, Chandler, Conn, Conn, Doolittle, Edwards, Emerson, Fogg, Foster, Foster, Graves, Harris, Henderson, Howe, Johnson, Kirkwood, Lane, Morgan, Merrill, Moses, Nickerson, Page, Shank, Shew, Starr, Sumner, Thomas, Van Winkle, Williams, Wilson—34.

4th House.

January 22—Mr. Noell introduced a bill to abolish all disqualification from voting in the District of Columbia, on account of sex, and moved it be referred to a select committee, which was lost—yeas 14, nays 17, as follow:


Same day—The House concurred—yeas 104, nays 8, as follow:

1867, January 10—Pending the bill to amend the organic acts of the Territories.

This substitute was adopted:
That from and after the passage of this act there shall be no denial of the elective franchise in any of the Territories of the United States, nor hereafter to be organized, to any citizen thereof, on account of race, color, or previous condition of serviitude, and all acts and parts of acts, either of Congress or the legislative assemblies of said Territories, inconsistent with the provisions of this act, are hereby declared null and void.

The vote was—yeas 49, nays 7, as follow:

YEAS—Messrs. Anthony, Brown, Cowan, Doolittle, Foster, Foster, Hendricks, Nunnally, Patterson, Riddle, Williams—11.


Note.—This bill became a law by reason of the failure of the President to sign or return it with his objections, within ten days after presentation to him.

Female Suffrage and Intelligence Suffrage.

Pending the District of Columbia Suffrage bill in the Senate.

1866, December 12—Mr. Cowan moved to strike from the word "male," which was lost—yeas 9, nays 37, as follow:


NAYs—Messrs. Bridge, Buckalew, Cattell, Chandler, Conn, Conn, Doolittle, Edwards, Emerson, Fogg, Foster, Foster, Graves, Harris, Henderson, Howe, Johnson, Kirkwood, Lane, Morgan, Merrill, Moses, Nickerson, Page, Shank, Shew, Starr, Sumner, Thomas, Van Winkle, Williams, Wilson—1.

Mr. Dixie moved to add to first section this proviso:
"That no person who has not herebefore voted in this District shall be permitted to vote, unless he shall be able at the time of offering to vote, to read, and also to write his own name.

Which, December 13, was lost—yeas 11, nays 34, as follow:

YEAS—Messrs. Anthony, Buckalew, Doolittle, Doolittle, Foster, Hendricks, Nunnally, Patterson, Riddle, Williams—11.

NAYs—Messrs. Brown, Cattell, Chandler, Conn, Conn, Doolittle, Edwards, Emerson, Fogg, Foster, Foster, Graves, Harris, Henderson, Howe, Johnson, Kirkwood, Lane, Morgan, Merrill, Moses, Nickerson, Page, Shank, Shew, Starr, Sumner, Thomas, Van Winkle, Williams, Wilson—34.

5th House.

January 22—Mr. Noell introduced a bill to abolish all disqualification from voting in the District of Columbia, on account of sex, and moved it be referred to a select committee, which was lost—yeas 14, nays 17, as follow:


Test Oath of Attorneys.

In House.

1867, January 22—Mr. Boutwell reported this bill:
"Be it enacted, &c., That no person shall be permitted to act as an attorney or counsellor in any court of the United States who has been guilty of treason, bribery, murder, or other felony, or who has been engaged in any rebellion against the Government of the United States, or who has given aid, comfort, or encouragement to the enemies of the United States in armed hostility thereto.

Sec. 2. That the first section of this act is hereby declared to be a rule of court of the United States.

Sec. 3. That it shall be the duty of the judge or judges of any such court, when the sugges-
tion is made in open court that any person acting as an extenuated agent, or counselor of said court, or offering or proposing to do so, is barred by the provisions of this act, or whenever said judge or judges shall believe that such person is so barred, to inquire and ascertain whether such person has been guilty of treason, bribery, murder, or other felony, or whether he has been engaged in any rebellion against the Government of the United States, or whether he has given aid, comfort, or encouragement to the enemies of the United States in armed hostility thereto; and if the court shall be of opinion that such person has been guilty of treason, bribery, murder, or other felony, or that he has been engaged in any rebellion against the Government of the United States, or that he has given aid, comfort, or encouragement to the enemies of the United States in armed hostility thereto, to exclude and debar such person from the office of attorney or counselor of said court. And any person who shall testify falsely in any examination made by any court, and therefore, shall be guilty of perjury, and liable to the pains and penalties of perjury.

January 23—The bill passed—yeas 119, nays 43, as follow:


The bill was not acted upon in the Senate.

Validating Certain Proclamations and Acts of the President, and Others.

In House.

1867, January 22—Funding this bill, introduced by Mr. Bingham, and reported from the Judiciary Committee, with amendments, by Mr. James F. Wilson, as an act to declare valid and conclusive certain proclamations of the President, and acts done in pursuance thereof, or of his orders, in the suppression of the late rebellion against the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all acts, proclamations, and orders of the President of the United States, or as aiders or abettors thereof, or as guilty of any disloyal practice in aid thereof, or of any violation of the laws or usages of war, or of affording aid and comfort to rebels against the authority of the United States, and all proceedings and acts done or had by courts-martial or military commissions, or arrests and imprisonments made in the premises by any person by the authority of the orders or proclamations of the President, made as aforesaid, or in aid thereof, are hereby approved in all respects, legalized and made valid, to the same extent and with the same effect as if said orders and proclamations had been issued and made, and said arrests, imprisonments, proceedings, and acts had been done under the previous express authority and direction of the Congress of the United States, and in pursuance of a law thereof previously enacted and expressly authorizing and directing the same to be done. And no civil court of the United States, or of any State, or of the District of Columbia, or of any district or Territory of the United States, shall have or take jurisdiction of, or in any manner reverse any of the proceedings had or acts done in pursuance of the aforesaid, nor shall any person be held to answer in any of said courts for any act done or omitted to be done in pursuance or in aid of any of said proclamations or orders, or by authority or with the approval of the President within the period aforesaid, and respecting any of the matters aforesaid; and all officers or other persons in the service of the United States, or who acted in aid thereof, acting in the premises, shall be held prima facie to have been authorized by the President; and all acts and parts of acts heretofore passed, inconsistent with the provisions of this act, are hereby repealed.

On the motion to insert the clause beginning "and all officers and other persons," the yea were 120, the nays 27. (Messrs. Allen, Bergey, Boyer, Campbell, Chandler, Cooper, Dawson, Dennis, Edgell, Finch, Gossbrenner, Goodwin, Aaron Harding, Hare, Abner D. Husted, Humphreys, Hunter, Kerr, Lewis, LeBlond, Leitch, M'Callagh, McKean, Nettle, Nicholas, Potts, Rodger, Willard, H. Horsman, Clark, Rogers, Dinsmore, Sproll, Sproll, Tale, Taylor, Thurman, Trowbridge, Andrew H. Ward, Wirefield—159.

February 23—The bill passed—yeas 112, nays 32, as follow:


sate—March 2—The bill passed—yeas 36, nays 8, as follow:—


Homesteads in Southern States.

1837, February 28—Mr. Julian reported a bill amending the act of June 21, 1836, respecting homesteads in Alabama, Mississippi, Louisiana, Arkansas, and Florida, so that any person applying for the benefit of said act shall be required to make oath that he has not voluntarily borne arms against the United States or given aid or comfort to its enemies; provided, That such oath shall not be required of any person who during the late war enlisted in the military or naval service of the United States, and who shall have been honorably discharged therefrom, and not thereafter rendered any aid or comfort to the rebellion.

The bill was passed—yeas 97, nays 36, as follows:


The bill was not acted upon in the Senate.

To suspend all proceedings in relation to the Payment for Slaves drafted or received as Volunteers in the Military Service.

In House.

1837, March 18—The bill passed, providing that all further proceedings under the twenty-fourth section of the act of Congress approved February twenty-fourth, eighteen hundred and sixty-four, "to award compensation to the masters of slaves drafted into the military service of the United States, and to award compensation to persons to whom colored volunteers may owe service," and under the second section of the act approved July twenty-eighth, eighteen hundred and sixty-six, "making an appropriation for payment to persons claiming service or labor from colored volunteers or drafted men," be, and the same is hereby suspended. And the Secretary of War is directed to dissolve the commissions and make payment to the commissioners and clerks for the services rendered, upon their making report of their proceedings to the War Department.

March 18—The vote on Mr. Schenck's motion to suspend the rules to allow the consideration of the bill, was the only vote taken—and was yeas 52, nays 21, as follows:

YEAS—Messrs. Ames, Anderson, Dolan R. Ashley, James M. Ashley, Baker, Baldwin, Bremer, Benjamin, Bright, Blaine, Blake, Bowdoin, Brewster, Brown, Butler, Churchill, Ronda W. Clarke, Sidney Clarke, Cobb, Cook, Cornell, Cushing, Cutler, Detween, Dodge, Eliot, Elmore, Fenner, Ferry, Fessenden, Giddings, Gravelin, Hamilton, Hay, Hooper, Hopkins, Asahel W. Hubbard, Charles D. Hubbard, Hunter, Judah, Juler, Keeler, Kitchen, Kowles, Lefun, William Lawrence, Layne, Marvin, Mr. Jerry, Miller, Moses, Myers, Newcomb, O'Sullivan, Orce, Palmer, Patten, Peters, Pike, Pint, Poinsett, Poland, Sumner, Conant, Logan, Ziegler, Smith, Schuyler, Sco-
PROPOSED IMPEACHMENT OF PRESIDENT JOHNSON.

1867, February 21—Mr. FEELINGHUYSEN reported it from the Committee on the Judiciary, with an amendment as to the form of proceeding, but it was not reached before adjournment.

PROPOSED IMPEACHMENT OF PRESIDENT JOHNSON.

1868, December 17—Mr. JAMES M. ASHLEY moved a suspension of the rules to enable him to report, from the Committee on Territories, this resolution:

Resolved, That a select committee to consist of seven members of this House be appointed by the Speaker, whose duty it shall be to inquire whether any acts have been done by any officer of the Government of the United States which in contemplation of the Constitution are high crimes or misdemeanors, and whether said acts were designed or calculated to overthrow, subvert, or corrupt the Government of the United States, or any department thereof, and that said committee have power to send for persons and papers and to administer the customary oath to witnesses, and that they have leave to report by bill or otherwise.

Which was not agreed to, (two-thirds being necessary.) yeas 50, nays 49, as follow:

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IN HOUSE.

1868, July 24—Mr. WILLIAMS reported from the Committee on the Judiciary the following bill:

That in all cases where any loyal citizen of the United States may have been disseized or dispossessed of any lands or tenements belonging to him or her, within any of the States lately in rebellion, by any order, proceeding, or decree, under the pretended authority of the so-called Confederate government, or of any of the States comprising the same, on the ground of his or her adherence to the cause of the Union, or his or her absence, or failure to return to the said rebellion, it shall be the duty of the President of the United States, or the commanding officer of the military forces stationed within the particular State or District, on complaint made to either of them in writing, by the party or parties so disseized or dispossessed, their heirs or assigns, accompanied by satisfactory evidence that the title or possession of any such property is claimed by the person or persons occupying the same under or by virtue of any such order, proceeding, or decree, to restore the person or persons so interested and aggrieved to the possession of the same under or by virtue of any such order, proceeding, or decree, accompanied by satisfactory evidence that the title or possession of any such property is claimed by the person or persons occupying the same under or by virtue of any such order, proceeding, or decree, to restore the person or persons so interested and aggrieved to the possession of the same under or by virtue of any such order, proceeding, or decree.

A Bill to Restore the Possession of Lands Con­fiscated by the Authorities of the States lately in Rebellion.

IN SENATE.

1867, January 7—Mr. LORENZO offered this resolution, which was referred to the Committee on Reconstruction:

Resolved, That for the purpose of securing the fruits of the victories gained on the part of the Republic during the late war, waged by rebels and traitors against the life of the nation, and of giving effect to the will of the people as expressed at the polls during the recent elections by a majority numbering in the aggregate more than four hundred thousand votes, it is the imperative duty of the Thirty-Ninth Congress to take without delay such action as will accomplish the following objects:

1. The impeachment of the officer now exercising the functions pertaining to the office of President of the United States of America, and his removal from said office upon his conviction, in due form of law, of the high crimes and misdemeanors of which he is manifestly and notori-
ous guilty, and which render it unsafe longer to permit him to exercise the powers he has unlawfully assumed.

2. To provide for the faithful and efficient administration of the executive department of the Government within the limits prescribed by law.

3. To provide effective means for immediately reconvening civil governments in those States lately in rebellion, excepting Tennessee, and for restoring them to their practical relations with the Government upon a basis of loyalty and justice; and to this end,

4. To secure, by the direct intervention of Federal authority, the right of franchise alike, without regard to color, to all classes of loyal citizens residing within those sections of the Republic which were lately in rebellion.

Same day—Mr. Kelso offered this resolution:

Resolved, That for the purpose of securing the fruits of the victories gained on the part of the Republic during the late war, waged by rebels and traitors against the life of the nation, and of giving effect to the will of the people, as expressed by the polls during the late elections by majorities numbering in the aggregate more than four hundred thousand votes, it is the imperative duty of the Thirty-Ninth Congress to take, without delay, such action as will accomplish the following objects:

1. The impeachment of the officer now exercising the functions pertaining to the office of the President of the United States of America, and his removal from office, upon his conviction, in due form, of the crimes and misdemeanors of which he is manifestly and notoriously guilty, and which render him unsafe longer to permit him to exercise the powers he has unlawfully assumed.

2. To provide for the faithful and efficient administration of the executive department within the limits prescribed by law.

Mr. Davis moved it be tabled; which was disagreed to—yeas 40, nays 104. The Yeas were:


They were subsequently referred to the Committee on the Judiciary.

Same day—Mr. James M. Ashley, as a question of privilege, submitted the following:

I do impeach Andrew Johnson, Vice-President of the United States of high crimes and misdemeanors.

I charge him with a usurpation of power and violation of law:

In that he has corruptly used the appointing power;

In that he has corruptly used the pardoning power;

In that he has corruptly disposed of public property of the United States;

In that he has corruptly interfered in elections, and committed acts which, in contemplation of the Constitution, are high crimes and misdemeanors: Therefore,

Be it resolved, That the Committee on the Judiciary be, and they are hereby, authorized to inquire into the official conduct of Andrew Johnson, Vice-President of the United States, discharging the powers and duties of the Vice-President of the United States, and to report to this house whether, in their opinion, the said Andrew Johnson, while in said office, has been guilty of acts which were designed or calculated to overthrow, subvert, or corrupt the Government of the United States, or any department or officer thereof; and whether the said Andrew Johnson has been guilty of any act, or has conspired with others to do acts, which, in contemplation of the Constitution, are high crimes or misdemeanors, requiring the interposition of the constitutional power of this house; and that said committees have power to send for persons and papers, and to administer the customary oath to witnesses.

Mr. Spalding moved to lay the subject on the table; which was disagreed to—yeas 108, nays 39, as follow:


The Committee on the Judiciary, charged by the House with the examination of certain allegations of high crimes and misdemeanors against the President of the United States, submit the following report:

On the seventh day of January, 1867, the House, on motion of Hon. James M. Ashley, a representative from the State of Ohio, adopted the following preamble and resolution, to wit:

"I do impeach Andrew Johnson, Vice-President and acting President of the United States, of high crimes and misdemeanors.

I charge him with a usurpation of power and violation of law:

In that he has corruptly used the appointing power;

In that he has corruptly used the pardoning power;

In that he has corruptly disposed of public property of the United States;

In that he has corruptly interfered in elections, and committed acts which, in contemplation of the Constitution, are high crimes and misdemeanors:

Thereupon, if so resolved, that the Committee on the Judiciary be, and they are hereby, authorized to inquire into the official conduct of Andrew Johnson, Vice-President of
PROPOSED IMPEACHMENT OF PRESIDENT JOHNSON.

the United States, discharging the powers and duties of the office of President of the United States, and to report to this House whether, in their opinion, the said Andrew Johnson, while in said office, has been guilty of acts which were designed or calculated to overthrow, subvert, or corrupt the government of the United States, or any department or officer thereof; and whether the said Andrew Johnson has been guilty of any act or acts committed with fraud to deprive, which, in contemplation of the Constitution, are high crimes or misdemeanors, requiring the interposition of the constitutional power of this House; and that said committee have power to send for persons and papers and to administer the customary oaths to witnesses.

The duty imposed on the committee, by this action of the House, was of the highest and gravest character. No committee during the entire history of the government had ever been charged with a more important trust. The responsibility which it imposed was of oppressive weight, and of most unpleasant nature. Gladly would the committee have escaped from the arduous labors imposed on it by the resolution of the House; but, once imposed, prompt, deliberate, and faithful action, with a view to correct results, became its duty, and to this end it has directed its efforts.

Soon after the adoption of the resolution by the House, the Hon. James M. Ashley communicated to the committee, in support of his charges against the President of the United States, such facts as were in his possession, and the investigation was proceeded with, and has been continued almost without a day's intermission. A large number of witnesses has been examined, many documents collected, and everything done which could be done to reach a conclusion of the case. But the investigation covers a broad field, embraces many novel and interesting and important questions, and involves a multitude of facts; while most of the witnesses are distant from the capital; owing to which, the committee, in view of the magnitude of the interests involved in this action, has not been able to conclude its labors, and is not, therefore, prepared to submit a definite and final report.

If the investigation had even approached completeness, the committee would not feel authorized to present the result to the House at this late period of the session, unless the charges had been so entirely negatived as to admit of no discussion, which, in the opinion of the committee, is not the case. Certainly, no affirmative report could be properly considered in the expiring hours of this Congress.

The committee not having fully investigated all the charges preferred against the President of the United States, it is deemed inexpedient to submit any conclusion, beyond the statement that sufficient testimony has been brought to its notice to justify and demand a further prosecution of the investigation.

The testimony which the committee has taken will pass into the custody of the Clerk of the House, and can go into the hands of such committee as may be charged with the duty of bringing this investigation to a close, so that the labor expended upon it may not have been in vain.

The committee regrets its inability definitely to dispose of the important subject committed to its charge, and presents this report for its own justification, and for the additional purpose of notifying the succeeding Congress of the incompleteness of its labors, and that they should be completed.

James F. Wilson, Chairman.
G. S. Boutwell.
Thomas Williams.
Borbor C. Cook.
Wm. Lawrence.
Francis Thomas.
D. Morris.
F. E. Woodward.

MINORITY REPORT.

Mr. Rogers, the minority of the committee, submit the following as his views:

The subscriber, one of the Judiciary Committee, to whom was referred by the House the inquiry to inquire into the official conduct of his Excellency the President of the United States, with a view to his impeachment upon certain charges made by the Hon. James M. Ashley, begs leave to submit the following report:

The committee refuse to allow a report to be made giving the evidence to the House at this time, upon grounds which are no doubt satisfactory to themselves. Therefore, I cannot report the evidence upon which my conclusion is based, which I would gladly do, did the committee deem it expedient. The examination of witnesses and the records was commenced, as appears by the majority report, about the time of the reference, to wit, on the 7th of January, 1867, and continued daily. A large number of witnesses has been examined, and everything done that could be done to bring the case to a close, as appears by the majority report; and the majority came to the conclusion "that sufficient testimony has been brought to its notice to justify and demand a further prosecution of the investigation." I have carefully examined all the evidence in the case, and do report that there is not one particle of evidence to sustain any of the charges which the House charged the committee to investigate, and that the case is wholly without a particle of evidence upon which an impeachment could be founded, and that with all the effort that has been made, and the mass of evidence that has been taken, the case is entirely bald of proof. I furthermore report that the most of the testimony that has been taken is of a secondary character, and such as would not be admitted in a court of justice. In view of this conclusion, I can see no good in a continuation of the investigation. I am convinced that all the proof that can be produced has been before the committee, as no pains have been spared to give the case a full investigation. Why, then, keep the country in a feverish state of excitement upon this question any longer, as it is sure to end, in my opinion, in a complete vindication of the President, if justice be done him by the committee, of which I have no doubt.

A. J. Rogers.

Impeachment in Fortieth Congress.

In House.

1867, March 7—Mr. James M. Ashley rose to a question of privilege, and submitted these resolutions:

Whereas the House of Representatives of the Thirty-Ninth Congress adopted, on the 7th of January, 1867, a resolution authorizing an in-
The Judiciary Committee, to whom said resolution and charges were referred, with authority to investigate the same, were unable for want of time to complete said investigation before the expiration of the Thirty-Ninth Congress; and whereas in the report submitted by said Judiciary Committee on the 21st of March they declare that the evidence taken is of such a character as to justify and demand a continuation of the investigation by this Congress; Therefore,

Be it resolved by the House of Representatives, That the Judiciary Committee, when appointed, be, and they are hereby, instructed to continue the investigation authorized in said resolution of January 7, 1867, and that they have power to send for persons and papers, and to administer the customary oaths to witnesses; and that the committee have authority to sit during the sessions of the House and during any recess which Congress or this House may take.

Resolved, That the Speaker of the House be requested to appoint the Committee on the Judiciary forthwith, and that the committee so appointed be directed to take charge of the testimony taken by the committee of the last Congress; and that said committee have power to appoint a clerk at a compensation not to exceed six dollars per day, and employ the necessary stenographer.

Resolved, That the Clerk of the House of Representatives be directed to pay out of the contingent fund of the House, on the order of the Committee of the Judiciary, such sum or sums of money as may be required to enable the said committee to prosecute the investigation above directed, and such other investigations as it may be ordered to make.

Mr. Holman moved to table the resolutions, which was disagreed to—yeas 32, nays 119, as follow:

YEAS—Messrs. Archer, Barnes, Bayes, Brooks, Burr, Chamber, Deming, Eldridge, Fox, Gats, Haight, Holman, Humphrey, Kerr, Merrill, McCullogh, Morgan, Morriss, Musgrove, Neill, Nicholson, Phelps, Prang, Randall, Rob-\n

March 29—Mr. Sidney Clarke offered this preamble and resolution:

Resolved, That upon the facts disclosed it was in their judgment required and demanded that the inquiry should be prosecuted to a conclusion by the present Congress; and whereas in accordance with the said opinion this House did commit the said subject anew to its Committee on the Judiciary, which is now diligently engaged in the examination thereof; and whereas, in view of the report and recommendation of the Judiciary Committee of the last House, it would be dangerous to the public interest and safety of duty on the part of the present Congress, to adjourn and abdicate its practical control over the administration of the Government by surrendering its duties, in the present critical condition of affairs, into the hands of an officer thus impeached before the nation, and well known not only to be hostile to the policy of its Congress, and to entertain the opinion that all the acts of the present Congress looking to a restoration of the Union are unconstitutional: Therefore,

Resolved, That the Committee on the Judiciary be requested to report on the charges preferred against the President, as aforesaid, on the first day of the meeting of the House after the recess hereafter to be determined.

Mr. Bourne moved to table the resolution; which was disagreed to—yeas 38, nays 63, as follow:


The preamble was laid on the table, on a division by tellers—yeas 54, nays 32. The resolution was then adopted.

The committee, it is understood, will make a report upon the 3d of July, on the reassembling of Congress.
XVIII.

TEXT OF THE RECONSTRUCTION MEASURES.

14th Constitutional Amendment.

Joint Resolution proposing an Amendment to the Constitution of the United States.

Be it resolved by the Senate and House of Representatives of the United States, 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 as part of the Constitution, namely:

ARTICLE XV.

Section 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.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. 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 the proportion which the number of such male citizens bears to the whole number of male citizens twenty-one years of age in such State.

Section 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; 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 the proportion which the number of such male citizens bears to the whole number of male citizens twenty-one years of age in such State.

Section 3. That it shall be the duty of each officer assigned as aforesaid 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, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

Section 4. That all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted; and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the army shall not be affected by this act, except in so far as they conflict with its provisions: Pro-
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wided, That no sentence of death under the pro-
visions of this act shall be carried into effect
without the approval of the President.
SEC. 5. That when the people of any one of
said rebel States shall have formed a constitution
of government in conformity with the Constitu-
tion of the United States in all respects, framed
by a convention of delegates elected by the male
citizens of said State twenty-one years old and
upward, of whatever race, color, or previous con-
scription, who have been residents in said State
for one year previous to the day of such election,
except such as may be disfranchised for partici-
pation in the rebellion, or for felony at common
law in the Congress of the United States, any
person shall be eligible to any office under any
constitutional provision in the Constitution in the
year eighteen hundred and sixty-seven, to be apportioned among the
several districts, counties, or parishes of each
State by the commanding general, giving to each
representative in the house of representatives of
each State the number of members as represented the territor
ty now constituting Virginia in the most numerous branch of
the legislature of said State in the year eighteen
hundred and sixty-six, to be apportioned as aforesaid,
nealy as nearly as may be. The conven-
tion in Virginia shall consist of the same number of mem-
ners as the most numerous branch of the legislature of said State in the year eighteen
hundred and sixty-six, to be apportioned among the
several districts, counties, or parishes of each
State by the commanding general, giving to each
represented in the house of representatives of
each State the number of members as represented the territor
ty now constituting Virginia in the most numerous branch of
the legislature of said State in the year eighteen
hundred and sixty-six, to be apportioned as aforesaid.
SEC. 3. That at said election the registered
voters of each State shall vote for or against a
convention to form a constitution therefor under
TEXT OF THE RECONSTRUCTION MEASURES.

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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 above-said, the words "For a convention," and those voting against such a convention shall have written or printed on such ballots the words "Against a convention." The person appointed to superintend said election, and to make return of the votes given therein, 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 result of such vote, and make proclamation thereof; and 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 until a majority of all such registered voters shall have voted on the question. If a majority of said vote shall be against a convention, then such convention shall be held as hereinafter provided: Provided, That if a majority of said votes shall be against a convention, then no such convention shall be held under this act: 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 wilful and corrupt perjury.

SEC. 5. That after said return has been made to the commanding general of the district, he shall forthwith transmit the same to Congress, in session, and if not in session, then immediately upon its next assembling; and if Congress 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 theretofrom as therein provided.

SEC. 8. That the convention for each State shall be held as hereinafter provided: 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 wilful and corrupt perjury.

SEC. 7. 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. 9. That the convention for each State shall be held as hereinafter provided: 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 wilful and corrupt perjury.
VOTES OF STATE LEGISLATURES ON THE FOURTEENTH CONSTITUTIONAL AMENDMENT.

LOYAL STATES.

RATIFIED—TWENTY-ONE STATES.

Maine—

SENATE, January 16, 1867, yeas 21, nays 0.
Houses, January 17, 1867, yeas 136, nays 12.

New Hampshire—

SENATE, July 6, 1866, yeas 8, nays 0.
HOUSE, July 25, 1866, yeas 207, nays 112.

New York—

SENATE, September 11, 1866, yeas 11, nays 10.
HOUSE, September 11, 1866, yeas 34, nays 24.

Pennsylvania—

SENATE, January 17, 1867, yeas 50, nays 0.
HOUSE, February 4, 1867, yeas 58, nays 29.

Rhode Island—

SENATE, January 15, 1867, yeas 15, nays 2.
HOUSE, January 15, 1867, yeas 43, nays 11.

Connecticut—

SENATE, June 23, 1866, yeas 11, nays 0.
HOUSE, June 23, 1866, yeas 131, nays 24.

New Jersey—

SENATE, January 3, 1867, yeas 22, nays 0.
HOUSE, January 10, 1867, yeas 19, nays 40.

Vermont—

SENATE, September 12, 1866, yeas 11, nays 10.
HOUSE, September 11, 1866, yeas 34, nays 24.

Massachusetts—

SENATE, March 20, 1867, yeas 27, nays 0.
HOUSE, March 14, 1867, yeas 120, nays 20.

LOV рAL STATES.

RA TIFIED—TWENTY-ONE STATES.

Kentucky—

SENATE, January 8, 1867, yeas 5, nays 0.
HOUSE, January 8, 1867, yeas 20, nays 22.

Michigan—

SENATE, January 6, 1867, yeas 20, nays 6.
HOUSE, January 8, 1867, yeas 65, nays 36.

MISSOURI—

SENATE, January 5, 1867, yeas 25, nays 1.
HOUSE, January 17, 1867, yeas 17, nays 10.

TENNESSEE—

SENATE, July 11, 1866, yeas 15, nays 6.
HOUSE, July 12, 1866, yeas 131, nays 11.

Indiana—

SENATE, January 16, 1867, yeas 29, nays 18.
HOUSE, January 23, 1867, yeas 40, nays 11.

ILLINOIS—

SENATE, January 10, 1867, yeas 17, nays 7.
HOUSE, January 14, 1867, yeas 40, nays 25.

Ohio—

SENATE, January 3, 1867, yeas 21, nays 12.
HOUSE, January 4, 1867, yeas 44, nays 25.

Georgia—

SENATE, September 10, 1866, yeas 2, nays 181.
HOUSE, November 9, 1866, yeas 1, nays 134.

Florida—

SENATE, September 8, 1866, yeas 2, nays 17.
HOUSE, November 9, 1866, yeas 2, nays 131.

Missouri—

SENATE, November 16, 1866, yeas 2, nays 0.
HOUSE, November 10, 1866, yeas 2, nays 0.

Alabama—

SENATE, January 7, 1866, yeas 0, nays 50.
HOUSE, December 1, 1866, yeas 6, nays 49.

Louisiana—

SENATE, February 5, 1867, unanimously.
HOUSE, February 6, 1867, yeas 6, nays 16.

XIX.

PROCLAMATIONS AND ORDERS.

PRESIDENT JOHNSON’S PROCLAMATIONS, ORDERS, AND TELEGRAMS ON RECONSTRUCTION.

Declaring the Insurrection at an End in Texas, and Civil Authority existing throughout the whole of the United States, August 20, 1866.

Whereas, by proclamation of the fifteenth and nineteenth of April, eighteen hundred and sixty-one, the President of the United States, in virtue of the power vested in him by the Constitution and the laws, declared that the laws of the United States were opposed and the execution thereof obstructed in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal by law;

And whereas, by another proclamation, made on the sixteenth day of August, in the same year, in pursuance of an act of Congress approved July thirteen, one thousand eight hundred and sixty-one, the inhabitants of the States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Texas,
PROCLAMATIONS AND ORDERS.

Arkansas, Mississippi, and Florida, (except the inhabitants of that part of the State of Virginia lying west of the Alleghany mountains, and except also the inhabitants of each other part of that State, and the other States before named, as might maintain a loyal adhesion to the Union and the Constitution, or might be, from time to time, occupied and encolled by forces of the United States engaged in the dispersion of insurgents,) were declared to be in a state of insurrection against the United States;

And whereas, another proclamation, of the first day of July, one thousand eight hundred and sixty-three, made in pursuance of an act of Congress approved June seventh, in the same year, the insurrection was declared to be still existing in the States before mentioned, with the exception of certain specified counties in the State of Virginia;

And whereas, by another proclamation made on the twentieth day of July, one thousand eight hundred and sixty-three, in pursuance of the act of Congress approved March third, one thousand eight hundred and sixty-one, were declared to be still in a state of insurrection against the United States;

And whereas, by another proclamation made on the first day of July, one thousand eight hundred and sixty-two, printed in pursuance of an act of Congress approved June seventh, in the same year, the insurrection was declared to be still existing in the States before mentioned, excepting Texas, had, in the manner aforesaid, given satisfactory evidence that they declare that it is believed to be a fundamental principle of government that the people who have revolted, and who have been overcome and subdued, must either be dealt with so as to induce them voluntarily to become friends, or else they must be held by absolute military power, or devastation, so as to prevent them from ever again doing harm as enemies, which last named policy is abhorrent to humanity and to freedom;

And whereas the President did, in the same proclamation, further declare that it is believed to be a fundamental principle of government that the people who have revolted, and who have been overcome and subdued, must either be dealt with so as to induce them voluntarily to become friends, or else they must be held by absolute military power, or devastation, so as to prevent them from ever again doing harm as enemies, which last named policy is abhorrent to humanity and to freedom;

And whereas the President did, in the same proclamation, further declare that it is believed to be a fundamental principle of government that the people who have revolted, and who have been overcome and subdued, must either be dealt with so as to induce them voluntarily to become friends, or else they must be held by absolute military power, or devastation, so as to prevent them from ever again doing harm as enemies, which last named policy is abhorrent to humanity and to freedom;

And whereas the President did, in the same proclamation, further declare that it is believed to be a fundamental principle of government that the people who have revolted, and who have been overcome and subdued, must either be dealt with so as to induce them voluntarily to become friends, or else they must be held by absolute military power, or devastation, so as to prevent them from ever again doing harm as enemies, which last named policy is abhorrent to humanity and to freedom;

And whereas the President did, in the same proclamation, further declare that it is believed to be a fundamental principle of government that the people who have revolted, and who have been overcome and subdued, must either be dealt with so as to induce them voluntarily to become friends, or else they must be held by absolute military power, or devastation, so as to prevent them from ever again doing harm as enemies, which last named policy is abhorrent to humanity and to freedom;

And whereas the President did, in the same proclamation, further declare that it is believed to be a fundamental principle of government that the people who have revolted, and who have been overcome and subdued, must either be dealt with so as to induce them voluntarily to become friends, or else they must be held by absolute military power, or devastation, so as to prevent them from ever again doing harm as enemies, which last named policy is abhorrent to humanity and to freedom;

And whereas the President did, in the same proclamation, further declare that it is believed to be a fundamental principle of government that the people who have revolted, and who have been overcome and subdued, must either be dealt with so as to induce them voluntarily to become friends, or else they must be held by absolute military power, or devastation, so as to prevent them from ever again doing harm as enemies, which last named policy is abhorrent to humanity and to freedom;

And whereas the President did, in the same proclamation, further declare that it is believed to be a fundamental principle of government that the people who have revolted, and who have been overcome and subdued, must either be dealt with so as to induce them voluntarily to become friends, or else they must be held by absolute military power, or devastation, so as to prevent them from ever again doing harm as enemies, which last named policy is abhorrent to humanity and to freedom;
tion of the United States provides for constituent communities only as States, and not as Territories, dependencies, or protectorates;

And further, that such constituent States must necessarily be, and by the Constitution and laws of the United States are made equals, and placed upon a like footing as to political rights, immunities, dignity, and power with the several States with which they are united;

And did further declare that the observance of such a principle of right and justice is well calculated to encourage the people of the before-named States, except Texas, to be and to become more and more constant and persevering in their renewed allegiance;

And whereas the President did further declare, that standing armies, military occupation, martial law, military tribunals, and the suspension of the writ of habeas corpus are, in times of peace, dangerous to public liberty, incompatible with the individual rights of the citizen, contrary to the genius and spirit of our free institutions, and exhausting of the national resources, and ought not, therefore, to be sanctioned or allowed, except in cases of actual necessity, for repelling invasion or suppressing insurrection or rebellion;

And the President did further, in the same proclamation, declare that the policy of the Government of the United States, from the beginning of the insurrection to its overthrow and final suppression, has been conducted in conformity with the principles in the last-named proclamation recited;

And whereas the President, in the said proclamation of the thirteenth of June, one thousand eight hundred and sixty-five, upon the grounds therein stated, did then and there declare that the insurrection which heretofore existed in the several States before named, except in Texas, was at an end, and was henceforth to be so regarded;

And whereas, subsequently to the said second day of April, one thousand eight hundred and sixty-six, the insurrection in the State of Texas has been completely and everywhere suppressed and ended, and the authority of the United States has been successfully and completely established therein unimpaired and undisputed, and of such of the proper United States officers as have been duly commissioned within the limits of the said State are now in the undisturbed exercise of their official functions;

And whereas the laws can now be sustained and enforced in the said State of Texas by the proper civil authorities, State or Federal, and the people of the said State of Texas, like the people of other States before named, are well and loyally disposed, and have conformed or will conform in their legislation to the condition of affairs growing out of the amendment of the Constitution of the United States prohibiting slavery within the limits and jurisdiction of the United States;

And whereas all the reasons and conclusions set forth in regard to several States therein specially named now apply equally and in all respects to the State of Texas, as well as to the other States which had been involved in insurrection;

And whereas adequate provision has been made by military orders to enforce the execution of the acts of Congress and the civil authorities, and secure obedience to the Constitution and laws of the United States within the State of Texas, if a resort to military force for such purpose should at any time become necessary;

Now, therefore, I, Andrew Johnson, President of the United States, do hereby proclaim and declare that the insurrection which heretofore existed in the State of Texas is at an end, and is to be henceforth so regarded in that State, as in the other States before named, in which the said insurrection was proclaimed to be at an end by the aforesaid proclamation of the second day of April, one thousand eight hundred and sixty-six.

And I do further proclaim that the said insurrection is at an end, and that peace, order, tranquillity, and civil authority now exist in and throughout the whole of the United States of America.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this twentieth day of August, in the year of our Lord one thousand eight hundred and sixty-six, and of the independence of the United States the ninety-first.

Andrew Johnson.

By the President:

Wm. H. Seward, Secretary of State.

Respecting American Merchant Vessels Stopping or Anchoring in Certain Ports of Japan, January 12, 1867.

Whereas in virtue of the power conferred by the act of Congress approved June 22, 1860, sections 15 and 24 of which act were designed by proper provisions to secure the strict neutrality of citizens of the United States residing in or visiting the empires of China and Japan, a notification was issued on the 4th of August last by the Legation of the United States in Japan, through the consulates of the open ports of that empire, requesting American shipmasters not to approach the coasts of Lucco and Nagato pending the then contemplated hostilities between the Tycoon of Japan and the Daimio of the said provinces;

And whereas authentic information having been received by the said Legation that such hostilities had actually commenced, a regulation, in furtherance of the aforesaid notification and pursuant to the act referred to, was issued by the Minister Resident of the United States in Japan forbidding American merchant vessels from stopping or anchoring at any port or roadstead in that country except the three open ports, viz: Kanagawa, Yokohama, Nagasaki, and Hakodate, unless in distress or forced by stress of weather, as provided by treaty, and giving notice that masters of vessels committing a breach of the regulation would thereby render themselves liable to prosecution and punishment and also to forfeiture of the protection of the United States if the visit to such non-opened port or roadstead should either involve a breach of treaty or be construed as an act in aid of insurrection or rebellion:
Now, therefore, be it known that I, Andrew
Johnson, President of the United States of Amer­
ica, with a view to prevent acts which might
injuriously affect the relations existing between
the Government of the United States and that
of Japan, do hereby call public attention to the
aforesaid notification and regulation, which are
hereby sanctioned and confirmed.

In testimony whereof I have hereunto set my
hand and caused the seal of the United States to
be affixed.

Done at the city of Washington, this twelfth
day of January, in the year of our Lord
[seal.] one thousand eight hundred and sixty­
seven, and of the independence of the
United States the ninety-first.

ANDREW JOHNSON,

By the President:
WILLIAM H. SEWARD, Secretary of State.

Respecting Decree of Maximilian, August 17,
1866.

Whereas a war is existing in the Republic of
Mexico, aggravated by foreign military inter­
vention;

And whereas the United States, in accordance
with their settled habits and policy, are a neu­
tral Power in regard to the war which thus
affects the Republic of Mexico;

And whereas it has become known that one
of the belligerents in the said war—namely, the
Prince Maximilian—who asserts himself to be
Emperor in Mexico, has issued a decree in regard
to the port of Matamoros, and other Mexican
ports which are in the occupation and possession
of another of the said belligerents—namely, the
United States of Mexico—which decree is in the
following words:

"The port of Matamoros, and all those of the northern
frontier which have withdrawn from their obedience to the
Government, are closed to foreign and coasting traffic during
time so as the empire of the law shall not be therein re­
instated.

"Art. 2. Merchandise proceeding from the said ports, on
arrival at any other nation, the produce of which may be
exempt of the duties imposed in the said ports, shall pay the
duties on importation, introduction, and consumption, and,
upon satisfactory proof of contraven­
the produce, manufactures, or mer­
chandise imported into the United States in the
same ports under like circumstances;

"The port of Matamoros, and all those of the northern
frontier which have withdrawn from their obedience to the
Government, are closed to foreign and coasting traffic during
time so as the empire of the law shall not be therein re­
instated.

"Art. 2. Merchandise proceeding from the said ports, on
arrival at any other nation, the produce of which may be
exempt of the duties imposed in the said ports, shall pay the
duties on importation, introduction, and consumption, and,
on satisfactory proof of contraven­
the produce, manufactures, or mer­
chandise imported into the United States in the
same ports under like circumstances;

"Given at Mexico, the 9th of July, 1866."
the vessels of the United States, and the produce, manufactures, and merchandise imported into the Hawaiian Islands in the same, as aforesaid, shall be continued on the part of the Government of his Majesty the King of the Hawaiian Islands.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, the twenty-ninth day of January, in the year of our Lord one thousand eight hundred and sixty-seven, and of the independence of the United States of America, the ninety-first.

By the President:

Wm. H. Seward, Secretary of State.

Declaring Nebraska a State in the Union, March 1, 1867.

Whereas the Congress of the United States did, by an act approved on the eleventh day of April, one thousand eight hundred and sixty-four, authorize the people of the Territory of Nebraska to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, upon certain conditions in said act specified; and whereas said people did adopt a constitution conforming to the provisions and conditions of said act, and seek admission into the Union; and whereas the Congress of the United States did, on the eighth and ninth days of February, one thousand eight hundred and sixty-seven, in mode prescribed by the Constitution of the State of Nebraska into the Union, in which last-named act it was provided that it should not take effect until said State should be admitted to the Union; and whereas the said State of Nebraska is now complete, and the fundamental conditions imposed by Congress on the State of Nebraska to entitle it to admission into the Union have been satisfied and accepted, and that the admission of the said State into the Union is now complete.

In testimony whereof I have hereunto set my hand and have caused the seal of the United States to be affixed.

Done at the city of Washington, this first day of March, in the year of our Lord one thousand eight hundred and sixty-seven, and of the independence of the United States of America, the ninety-first.

By the President:

Andrew Johnson.

Withdrawing reward for John H. Surratt, and others.*

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, November 24, 1865.

General Orders, No. 104.

Ordered: That all persons claiming reward for the apprehension of John Wilkes Booth, Lewis Payne, O. A. Atwood, and David E. Herold, and Jefferson Davis, or either of them, are notified to file their claims and their proofs before the first day of January next, after which time no claims will be received.

II. The rewards offered for the arrest of Jacob Thompson, Beverley Tucker, George H. Sanders, William G. Cleary, and John H. Surratt are revoked.

By order of the President of the United States:

E. D. Townsend,
Assistant Adjutant General.

Release of Convicts.

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, July 13, 1866.

General Orders, No. 46.

Ordered: That all persons who are undergoing sentence by military courts, and have been imprisoned six months, except those who are under sentence for the crimes of murder, arson, or rape, and excepting those who are under sentence at the Tortugas, be discharged from imprisonment and the residue of their sentence remitted.

* Respecting this order, Secretary Stanton testified before a Congressional Committee, January 10, 1867, as follows:

Q. What was the reason for revoking the order offering a reward for the arrest of Surratt?

A. The reasons that induced my mind, were in the first place, that many months had elapsed without accomplishing the arrest of these parties, I was entirely satisfied that they were not in the United States, and that if any arrest was made it would have to be by government officials, who ought not to have any pretense of claiming the reward; besides, I thought that if the proclamation was withdrawn it would probably induce these parties to believe that pursuit was over, and they might return to the United States and be arrested. For these reasons I thought it expedient to revoke the order. It was done on my own responsibility. The President left it at my discretion to do as I thought best in the matter.
PROCLAMATIONS AND ORDERS.

Those who belong to the military service, and their term unexpired, will be returned to their command, if it is still in service, and their release is conditional upon their serving their full term and being of good behavior.

By order of the President of the United States:

E. D. TOWNSEND,
Assistant Adjutant General.

Reconstruction in Texas.

State Department.

Austin, Texas, July 20, 1866.

Hon. W. G. Brownlow:

To Gov. Brownlow, of Tennessee.*

WASHINGTON, July 20, 1866.

Hon. W. G. BROWNLOW:

I hope and have no doubt you will see that the recent amendments to the Constitution of the State, as adopted by the people, and all laws passed by the last Legislature in pursuance thereof, are faithfully and fairly executed, and that all illegal votes in the approaching election be excluded from the polls, and the election for members of Congress be legally and fairly conducted. When and wherever it becomes necessary to employ force for the execution of the laws and the protection of the ballot-box from violence and fraud, you are authorized to call upon Major General Thomas for sufficient force to sustain the civil authorities of the State. I have received your recent address to the people, and think it well-timed, and hope it will do much good in reconciling the opposition to the amendment of the Constitution and the laws passed by the last Legislature. The law must be executed and the civil authority sustained. In your efforts to do this, if necessary, General Thomas will afford a sufficient military force.

You are at liberty to make what use you think proper of this proper.

Andrew Johnson.

To Montgomery Blair, Postmaster General.

Nashville, November 24, 1863.

To Hon. M. Blair, Postmaster General:

I hope that the President will not be committed to the proposition of States relapsing into territories and held as such. If he steer clear of this extreme, his election to the next Presidency is without a reasonable doubt. I expected to have been in Washington before this time, when I could have conferred freely and fully in reference to the policy to be adopted by the Government; but it has been impossible for me to leave Nashville. I will be there soon. The institution of slavery is gone, and there is no good reason now for destroying the States to bring about the destruction of slavery.

Andrew Johnson.

General Grant's Revocation of Order Respecting Disloyal Newspapers.*

Headquarters Armies of the United States, Nashville, July 21, 1866.

The order of February 17, 1866, from these headquarters directing department commanders to forward copies of such newspapers published within their respective commands, as contained sentiments of disloyalty, &c., is hereby revoked.

By command of Lieut. Gen. Grant.

Geo. K. Lee,
Assistant Adjutant General.

Assigning Commanders to Military Districts, March 11, 12, and 15, 1867.

Headquarters of the Army, Washington, March 11, 1867.

General Orders No. 10.

II. In pursuance of the act of Congress en-

*An incomplete copy of this telegram is printed on page 21 of the Political Manual for 1866.
† For original order see Manual for 1866, p. 123.
orders in first military district
headquarters first district
state of virginia
richmond, march 13, 1867

general orders no. 1:
1. In compliance with the order of the president, the undersigned hereby assumes command of the first district, state of virginia, under the act of congress of march 2, 1867.
2. All officers under the existing provisional government of the state of virginia will continue to perform the duties of their respective offices, according to law, unless otherwise hereafter ordered in individual cases, until their successors shall be duly elected and qualified, in accordance with the above-named act of congress.
3. It is desirable that the military power conferred by the before-mentioned act be exercised only so far as may be necessary to accomplish the objects for which that power was conferred, and the undersigned appeals to the people of virginia, and especially to magistrates and other civil officers, to render the necessity for the exercise of this power as slight as possible, by strict obedience to the laws, and by impartial administration of justice to all classes.
4. The staff officers now on duty at headquarters department of the Potomac are assigned to corresponding duties at headquarters first district, state of virginia. j. m. schofield, brevet major general, u. s. a.

headquarters first district
state of virginia
richmond, va., march 15, 1867

general orders no. 2:
1. The following extract of an act of congress is re-published for the information and government of all concerned:
[public—no. 85.]
an act making appropriations for the support of the army for the year ending june thirtieth, eighteen hundred and sixty-eight, and for other purposes.

section 6. And be it further enacted, That it shall be the duty of the officers of the army and navy and of the Freedmen's Bureau to prohibit and prevent whipping or maiming of the person, as a punishment for any crime, misdemeanor, or offence, by any pretended civil or military authority, in any state lately in rebellion, until the civil government in such state shall have been restored, and shall have been recognized by the congress of the united states.

approved march 2, 1867.

S. F. CHALEIN, A. A. G.

headquarters first district
state of virginia
richmond, va., march 15, 1867

1. The following extract of an act of congress is re-published for the information and government of all concerned:

section 6. And be it further enacted, That it shall be the duty of the officers of the army and navy and of the Freedmen's Bureau to prohibit and prevent whipping or maiming of the person, as a punishment for any crime, misdemeanor, or offence, is hereby prohibited in this district.

by command of brig. and bvt. maj. gen. j. m. schofield, u. s. a.

E. D. TOWNSEND, assistant adjutant general.

headquarters of the army
adjutant general's office
washington, march 15, 1867

the president directs that the following changes be made, at the request of major general thomas, in the assignment announced in general orders no. 10, of march 11, 1867, of commanders of districts under the act of congress entitled "an act to provide for the more efficient government of the rebel states," and of the department of the cumberland created in general orders no. 14, of march 12, 1867: brevet major general john pope to command the third district, consisting of the states of georgia, florida, and alabama, and major general george H. thomas to command the department of the cumberland.

by command of general grant.

E. D. TOWNSEND, assistant adjutant general.

headquarters of the army
adjutant general's office
washington, march 15, 1867

section 6. And be it further enacted, That it shall be the duty of the officers of the army and navy and of the Freedmen's Bureau to prohibit and prevent whipping or maiming of the person, as a punishment for any crime, misdemeanor, or offence, is hereby prohibited in this district.

by command of brig. and bvt. maj. gen. j. m. schofield, u. s. a.

S. F. CHALEIN, A. A. G.

headquarters first district
state of virginia
richmond, va., march 15, 1867

1. The following extract of an act of congress is re-published for the information and government of all concerned:

section 6. And be it further enacted, That it shall be the duty of the officers of the army and navy and of the Freedmen's Bureau to prohibit and prevent whipping or maiming of the person, as a punishment for any crime, misdemeanor, or offence, is hereby prohibited in this district.

by command of brig. and bvt. maj. gen. j. m. schofield, u. s. a.

S. F. CHALEIN, A. A. G.
Proclamations and Orders.

[Public—No. 85.]

An Act making appropriations for the support of the army for the year ending June thirty-first, eighteen hundred and sixty-eight, and for other purposes. * * * *

Sec. 6. And be it further enacted, That all militia forces now organized or in service in either of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana, Mississippi, and Texas, be forthwith disbanded, and that the further organization, arming, or calling into service of the said militia forces, or any part thereof, is hereby prohibited under any circumstances whatever, until the same shall be authorized by Congress. * * * *

Approved March 2, 1867.


Headquarters First District
State of Virginia
Richmond, Va., April 2, 1867.

Special Orders, No. 16.

[Extract.]

1. A board of officers is hereby appointed to select and recommend to the commanding general for appointment persons to form boards of registration throughout the district, as required by the act of March 23, 1867.

The persons required will be one registering officer for each magisterial district of a county, or ward of a city at large, and two, four, or six for the county or city at large, according to the size of the county or city, so as to form with the registering officers of the several districts or wards, one, two, or three boards of registration for the county or city.

An officer of the army or Freedmen's Bureau will, if possible, be selected as a member of each board; and the other two will be selected from the following classes of persons, viz: 1st, Officers of the United States army, or of volunteers who have been honorably discharged after meritorious services during the late war. 2d, Loyal citizens of the county or city, for which they are selected. 3d, Any other loyal citizens having the proper qualifications.

These boards must be composed of men who not only are now, but always have been, loyal to the Government of the United States; men of high character, and sound, impartial judgment, and, as far as possible, men who have the confidence of all classes of citizens.

No registering officer shall be a candidate for any elective office while holding the office of registering officer.

With their recommendations for appointment, the board will report to the commanding general a brief of the testimonial and other evidence upon which their selections are based.

The board will appoint from time to time their selections for particular counties or cities, without waiting to complete the list.

Detail for the Board.


By command of Brigadier and Brevet Major General J. M. Schofield, U. S. A.

S. F. Chalpin, A. A. G.

Headquarters First District
State of Virginia
Richmond, Va., April 2, 1867.

General Orders, No. 9.

In pursuance of the acts of Congress of March 2 and 23, 1867, all officers hereafter to be elected or appointed under the provisional government of Virginia will, in addition to the oath of office prescribed by the laws of the State, be required to take and subscribe the following oath:

"I, — do solemnly —, in the presence of Almighty God, 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."

By order of Brigadier and Brevet Major General J. M. Schofield, U. S. A.

S. F. Chalpin, A. A. G.

Orders in Second Military District.

Headquarters Dep't of the South,
Charleston, S. C., March 8, 1867.

General Orders, No. 25.

Whipping or maiming of the person, as a punishment for any crime, misdemeanor, or offence, being now prohibited by the laws of the United States, all officers of the army and Freedmen's Bureau on duty in this Department, are hereby directed to prevent the infliction of such punishment by any authority whatever.


Jno. R. Myrick, A. A. A. G.

A like order was issued in each of the other Districts.
In compliance with General Orders No. 10, Headquarters of the Army, March 11, 1867, the undersigned hereby assumes command of the Second Military District, constituted by the act of Congress, Public No. 68, 2d March, 1867, entitled "An act for the more efficient government of the rebel States." 

II. In the execution of the duty of the commanding general to maintain the security of the inhabitants in their persons and property, to suppress insurrection, disorder, and violence, and to punish or cause to be punished all disturbers of the peace and criminals, the local and civil tribunals will be permitted to take jurisdiction of and try offenders, excepting only such cases as may, by the order of the commanding general, be referred to a commission or other military tribunal for trial.

III. The civil government now existing in North Carolina and South Carolina is provisional only, and in all respects subject to the paramount authority of the United States, at any time to abolish, modify, control, or supersede the same. Local laws and municipal regulations not inconsistent with the Constitution and laws of the United States, or the proclamations of the President, or with such regulations as are or may be prescribed in the orders of the commanding general, are hereby declared to be in force; and in conformity therewith, civil officers are hereby authorized to continue the exercise of their proper functions, and will be respected and obeyed by the inhabitants.

IV. Whenever any civil officer, magistrate, or court neglects or refuses to perform an official act properly required of such tribunal or officer, whereby due and rightful security to person or property shall be denied, the case will be reported by the post commander to these headquarters.

V. Post commanders will cause to be arrested persons charged with the commission of crimes and offenses when the civil authorities fail to arrest and bring such offenders to trial, and will hold the accused in custody for trial by military commission, provost court, or other tribunal organized pursuant to orders from these headquarters. Arrests by military authority will be reported promptly. The charges preferred will be accompanied by the evidence on which they are founded.

VI. The commanding general desiring to preserve tranquility and order by means and agencies most congenial to the people, solicits the zealous and cordial co-operation of civil officers in the discharge of their duties, and the aid of all good citizens in preventing conduct tending to disturb the peace; and to the end that occasion may seldom arise for the exercise of military authority in matters of ordinary civil administration, the commanding general respectfully and earnestly commends to the people and authorities of North and South Carolina an unreserved obedience to the authority now established, and the diligent, considerate, and impartial execution of the laws enacted for their government.

VII. All orders heretofore published to the Department of the South are hereby continued in force.

VIII. The following-named officers are announced as the staff of the major general commanding:

D. E. SICKLES,
Major General Commanding.

Brvt. Brig. Gen. GREEN, A. A. A. G.


E. SICKLES, A. A. A. G.
leaves the local authorities without adequate means of relief, and the gravity of the situation is increased by the general disposition shown by creditors to enforce upon an impoverished people the immediate collection of all claims. To suffer all this to go on without restraint or remedy is to sacrifice the general good. The rights of creditors shall be respected, but the appeal of want and suffering must be heeded. Moved by these considerations, the following regulations are announced. They will continue in force until the day of sale, and as the occasion may require until the civil government of the respective States shall be established in accordance with the requirements of the Government of the United States.

I. Imprisonment for debt is prohibited, unless the defendant in execution shall be convicted of a fraudulent concealment or disposition of his property with intent to hinder, delay, and prevent the creditor in the recovery of his debt or demand, and the proceedings now established in North and South Carolina respectively, for the trial and determination of such questions, may be adopted.

II. Judgments or decrees for the payment of money on causes of action arising between the 19th of December, 1860, and the 15th of May, 1865, shall not be enforced by execution against the property or person of the defendant. Proceedings in such cases of action now pending shall be stayed, and no suit or process shall be hereafter instituted or commenced for any such cause of action.

III. Sheriffs, coroners, and constables are hereby directed to suspend, for twelve calendar months the sale of all property upon execution or process on liabilities contracted prior to the 19th of December, 1860, unless upon the written consent of the defendants, except in cases where the plaintiff, or in his absence his agent or attorney, shall upon oath, with corroborative testimony, allege and prove that the defendant is removing or intends fraudulently to remove his property beyond the territorial jurisdiction of the court. The sale of real or personal property by foreclosure of mortgage is likewise suspended for twelve calendar months, except in cases where the payment of interest money accruing since the 15th day of May, 1865, shall not have been made before the day of sale.

IV. Judgments or decrees entered or enrolled on causes of action arising subsequent to the 15th of May, 1865, may be enforced by execution against the property of the defendant, in the application of the money arising under such execution to be had to the priority of liens, unless in cases where the good faith of any lien shall be drawn in question. In such cases the usual mode of proceeding adopted in North and South Carolina respectively to determine that question shall be adopted.

V. All proceedings for the recovery of money under contracts, whether under seal or by parole, the consideration for which was the purchase of negroes, are suspended. Judgments or decrees entered or enrolled for such causes of action shall not be enforced.

VI. All advances of money, subsistence, implements, and fertilizers, loaned, used, employed, or required for the purpose of aiding the agricultural pursuits of the people, shall be protected, and the existing laws which have provided the most efficient remedies in such cases shall be enforced. The like remedies provided to secure advances of money and other means for the cultivation of the soil.

VII. In all sales of property under execution or by order of any court there shall be reserved out of the property of any defendant who has a family dependent upon his or her labor a dwelling-house and appurtenances and twenty acres of land for the use and occupation of the family of the defendant, and necessary articles of furniture, apparel, subsistence, implements of trade, husbandry or other employment of the value of $600. The homestead exemption shall inure only to the benefit of families—that is to say, to parent or parents and child or children—in other cases the exemption shall extend only to clothing, implements of trade or other employment usually followed by the defendant, of the value of $100. The exemption hereby made shall not be waived or defeated by the act of the defendant. The excepted property of the defendant shall be ascertained by the sheriff or other officer enforcing the execution, who shall specifically describe the same, and make a report thereof in each case to the court.

VIII. The currency of the United States declared by the Congress of the United States to be a legal tender in the payment of all debts, due and demands, shall hereafter be recognized in North and South Carolina, and all the same shall be tendered in payment and refused by any public officer will be at once reported to these headquarters or to the commanding officer of the post within which such officer resides.

IX. Property of an absent debtor or one charged as such without fraud, whether consisting of money advanced for the purposes of agriculture or appliances for the cultivation of the soil, shall not be taken under the process known as foreign attachment; but the lien created by any existing law shall not be disturbed, nor shall the possession or the use of the same be in any wise interfered with, except in the execution of a judgment or final decree, in cases where they are authorized to be enforced.

X. In suits brought to recover ordinary debts known as actions ex contractu, bail, as heretofore authorized, shall not be demanded by the suitor nor taken by the sheriff or other officer serving the process; in suits for trespass, libel, wrongful conversion of property, and other cases, known as actions ex debito, bail, as heretofore authorized, may be demanded and taken. The prohibition of bail in cases ex contractu shall not extend to persons about to leave the State, but
the fact of intention must be clearly established by proof.

X. In criminal proceedings the usual recognizance shall be required and taken by the proper civil officers herefore authorized by law to take the same, provided that upon complaint being made to any magistrate or other person authorized by law to issue a warrant for breach of the peace or any criminal offense it shall be the duty of such magistrate or officer to issue his warrant upon the recognizance of the complainant to prosecute, without requiring him to give security on such recognizance.

XII. The practice of carrying deadly weapons, except by officers and soldiers in the military service of the United States, is prohibited. The concealment of such weapons on the person will be deemed an aggravation of the offense. Any violation of this order will render the offender liable to the punishment of death in certain cases of burglary and larceny imposed by the civil laws of North Carolina, pending to be brought for trial.

XIII. The orders hereof issued in this military district prohibiting the punishment of crimes and offenses by whipping, maiming, branding, stocks, pillory, or other corporal punishments, is in force and will be obeyed by all persons.

XIV. The practice of carrying deadly weapons, except by officers and soldiers in the military service of the United States, is prohibited. The concealment of such weapons on the person will be deemed an aggravation of the offense. Any violation of this order will render the offender liable to the punishment of death in certain cases of burglary and larceny imposed by the civil laws of North Carolina, pending to be brought for trial.

XV. The practice of carrying deadly weapons, except by officers and soldiers in the military service of the United States, is prohibited. The concealment of such weapons on the person will be deemed an aggravation of the offense. Any violation of this order will render the offender liable to the punishment of death in certain cases of burglary and larceny imposed by the civil laws of North Carolina, pending to be brought for trial.

XVI. Nothing in this order shall be construed to restrain or prevent the operation of proceedings in bankruptcy in accordance with the act of Congress in such cases made and provided, nor with the collection of any tax, impost, excise, or charge levied by authority of the United States, or of the provisional governments of North and South Carolina; but no imprisonment for over due taxes shall be allowed, nor shall this order or any law of the provisional governments of North and South Carolina operate to deny to minor children or children coming of age, or their legal representatives, nor to suspend as to them any right of action, remedy, or proceeding against executors, administrators, trustees, guardians, masters, or clerks of equity courts, or other officers or persons holding a fiduciary relation to the parties or the subject matter of the action or proceeding.

XVII. Any law or ordinance herefore in force in North or South Carolina inconsistent with the provisions of this general order is hereby suspended and declared inoperative.

By command of Major Gen. D. E. Sickles.

J. W. Clough, A. A. A. G.

Orders in Third Military District.

HEADQUARTERS, Sub-Dist. of Alabama,
MONTGOMERY, ALA., March 28, 1867.

General Orders, No. 1.

I. By direction of General Grant, all State and local elections in this State are disallowed, pending the arrival of the district commander appointed for this district, and his order in the premises.

II. In default of certain information that municipal or other corporate elections have not occurred since the passage of "An act to provide for the more efficient government of the rebel States," all persons any influence whatever in this State during this month will report the fact by letter to these headquarters, for the action of the district commander.

Wager Swain, Major General.

HEADQUARTERS, Third Military District,
Montgomery, Ala., April 1, 1867.

Orders No. 2.

I. In compliance with General Orders No. 18, dated Headquarters of the Army, March 15, 1867, the undersigned assumes command of the Third Military District, which comprises the States of Alabama, Georgia, and Florida.

II. The civil officers at present in office in Georgia, Florida, and Alabama will remain as at present constituted, and with their present commanders, except that the headquarters of the district of Georgia will be forthwith removed to Milledgeville.

III. The district of Key West is hereby merged into the District of Florida, which will be commanded by Colonel John T. Horrady, Seventh United States Infantry. The headquarters of the District of Florida are removed to Tallahassee, to which place the district commander will transfer his headquarters without delay.

IV. The civil officers at present in office in Georgia, Florida, and Alabama will retain their offices until the expiration of their terms of service, unless otherwise directed in special cases, so long as justice is impartially and faithfully administered. It is hoped that no necessity may arise for the interposition of the military authorities in the civil administration, and such necessity can only arise from the failure of the civil tribunals to protect the people, without distinction, in their rights of person and property.

V. The districts of Georgia and Alabama will remain as at present constituted, and with their present commanders, except that the headquarters of the district of Georgia will be forthwith removed to Milledgeville.

VI. The civil officers at present in office in Georgia, Florida, and Alabama will retain their offices until the expiration of their terms of service, unless otherwise directed in special cases, so long as justice is impartially and faithfully administered. It is hoped that no necessity may arise for the interposition of the military authorities in the civil administration, and such necessity can only arise from the failure of the civil tribunals to protect the people, without distinction, in their rights of person and property.

VII. The districts of Georgia and Alabama will remain as at present constituted, and with their present commanders, except that the headquarters of the district of Georgia will be forthwith removed to Milledgeville.

VIII. The civil officers at present in office in Georgia, Florida, and Alabama will retain their offices until the expiration of their terms of service, unless otherwise directed in special cases, so long as justice is impartially and faithfully administered. It is hoped that no necessity may arise for the interposition of the military authorities in the civil administration, and such necessity can only arise from the failure of the civil tribunals to protect the people, without distinction, in their rights of person and property.

IX. The districts of Georgia and Alabama will remain as at present constituted, and with their present commanders, except that the headquarters of the district of Georgia will be forthwith removed to Milledgeville.

X. The civil officers at present in office in Georgia, Florida, and Alabama will retain their offices until the expiration of their terms of service, unless otherwise directed in special cases, so long as justice is impartially and faithfully administered. It is hoped that no necessity may arise for the interposition of the military authorities in the civil administration, and such necessity can only arise from the failure of the civil tribunals to protect the people, without distinction, in their rights of person and property.

XI. The districts of Georgia and Alabama will remain as at present constituted, and with their present commanders, except that the headquarters of the district of Georgia will be forthwith removed to Milledgeville.

XII. The civil officers at present in office in Georgia, Florida, and Alabama will retain their offices until the expiration of their terms of service, unless otherwise directed in special cases, so long as justice is impartially and faithfully administered. It is hoped that no necessity may arise for the interposition of the military authorities in the civil administration, and such necessity can only arise from the failure of the civil tribunals to protect the people, without distinction, in their rights of person and property.

XIII. The districts of Georgia and Alabama will remain as at present constituted, and with their present commanders, except that the headquarters of the district of Georgia will be forthwith removed to Milledgeville.

XIV. The civil officers at present in office in Georgia, Florida, and Alabama will retain their offices until the expiration of their terms of service, unless otherwise directed in special cases, so long as justice is impartially and faithfully administered. It is hoped that no necessity may arise for the interposition of the military authorities in the civil administration, and such necessity can only arise from the failure of the civil tribunals to protect the people, without distinction, in their rights of person and property.

XV. The districts of Georgia and Alabama will remain as at present constituted, and with their present commanders, except that the headquarters of the district of Georgia will be forthwith removed to Milledgeville.

XVI. The civil officers at present in office in Georgia, Florida, and Alabama will retain their offices until the expiration of their terms of service, unless otherwise directed in special cases, so long as justice is impartially and faithfully administered. It is hoped that no necessity may arise for the interposition of the military authorities in the civil administration, and such necessity can only arise from the failure of the civil tribunals to protect the people, without distinction, in their rights of person and property.

XVII. The districts of Georgia and Alabama will remain as at present constituted, and with their present commanders, except that the headquarters of the district of Georgia will be forthwith removed to Milledgeville.

XVIII. The civil officers at present in office in Georgia, Florida, and Alabama will retain their offices until the expiration of their terms of service, unless otherwise directed in special cases, so long as justice is impartially and faithfully administered. It is hoped that no necessity may arise for the interposition of the military authorities in the civil administration, and such necessity can only arise from the failure of the civil tribunals to protect the people, without distinction, in their rights of person and property.

XIX. The districts of Georgia and Alabama will remain as at present constituted, and with their present commanders, except that the headquarters of the district of Georgia will be forthwith removed to Milledgeville.
and in the manner therein established; but all
vacancies in civil offices which now exist, or
which may occur by expiration of the terms of
office of the present incumbents, before the pre
scribed registration of voters is completed, will
be filled by appointment of the general com
manding the district.

JOHN POPE.
Major General Commanding.

HEADQUARTERS THIRD MILITARY DISTRICT,
MONTGOMERY, ALA., April 9, 1867.

General Orders, No. 5.

I. The following extract from the recent acts
of Congress in relation to reconstruction in the
Southern States is published for the information
of all concerned:

PUBLIC—No. 6.]

An act supplementary to an act entitled "An
act to provide for the more efficient govern
ment of the rebel States," passed March 2,
1867, and to facilitate restoration.

Be it enacted, &c., 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 2, 1867) shall
cause a registration to be made of the male ci
tizens of the United States, twenty-one years of
age and upwards, resident in each county or
parish in the State or States included in his dis
trict, 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 the
State for -- next preceding this day, and
now reside in the county of ,--, or the par
ish 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,
for felony committed against the laws of any
State, or the United States; that I have
never been a member of any State legislature,
or 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 rebel
lion against the United States, or given aid or
comfort to the enemies thereof; that I will faith
fully 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 admin
istered by any registering officer.

SEC. 4. That the commanding general of each
district shall appoint as many boards of regis
tration 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.

II. In order to execute this provision of the
act referred to with as little delay as possible,
the commanding officers of the districts of Ala
bama, Georgia, and Florida will proceed imme
diately to divide those States into convenient
districts for registration, aided by such informa
tion on the subject as they have or can obtain.
It is suggested that the election districts in each
State which in 1860 sent a member to the most
numerous branch of the State legislature will
be found a convenient division for registration.
It is desirable that in all cases the registers
shall be civilians where it is possible to obtain
such as come within the provisions of the act,
and are otherwise suitable persons; and that
military officers shall not be used for the purpose
except in case of actual necessity. The com
pensation for registers will be fixed hereafter, but
the general rule will be observed of gradating
the compensation by the number of recorded
voters. To each list of voters shall be appended
the oath of the register or registers that the
names have been faithfully recorded and repre
sent actual legal voters, and that the same man
does not appear under different names. The
registers are specifically instructed to see that
all information concerning their political rights
is given to all persons entitled to vote under
the act of Congress; and they are made responsi
ble that every such legal voter has the opportu
nity to record his name.

III. As speedily as possible, the names of per
sons chosen for registers shall be communicated
to these headquarters for the approval of the
commanding general.

IV. The district commanders in each of the
States comprised in this military district is au
thorized to appoint one or more general super
visors of registration, whose business it shall be
to visit the various points where registration is
being carried on, to inspect the operations of the
registers, and to assure themselves that every
man entitled to vote has the necessary informa
tion concerning his political rights, and the op
portunity to record his name.

V. A general inspector, either an officer of the
army or a civilian, will be appointed at these
headquarters, to see that the provisions of these
orders are fully and carefully executed.

VI. District commanders may, at their discre
tion, appoint civil officers of the United States
as registrars, with such additional compensation
as may seem reasonable and sufficient.

VII. The commanding officer of each district
will give public notice when and where the regis
trators will commence the registration, which
and that will be kept public by the registers in each
district during the whole time occupied in registra
tion.

VIII. Interference by violence, or threats of
violence, or other oppressive means to prevent
the registration of any voter, is positively pro
hibited; and any person guilty of such inter
ference shall be arrested and tried by the military
authorities.

By command of Brevet Major General Pope.

J. F. CORYNDRAM, A. A. A. G.
The principles which will control its execution have already been announced. A literal compliance with the requirements of the civil rights bill will be exacted. All payments on account of services rendered during the war to the pretended State organization, or any of its branches, are peremptorily forbidden.

HEADQUARTERS DISTRICT OF ALABAMA,
MONTGOMERY, Ala., April 2, 1867.

General Orders, No. 28.

By direction of General Pope, the undersigned is charged with the administration of the military reconstruction bill of this State.

The principles which will control its execution have already been announced.

WAGER SWAYNE,
Major General.

HEADQUARTERS POST OF AUGUSTA,
AUGUSTA, Ga., April 9, 1867.

General Orders, No. 28.

It having been reported to me that the mayor and city council of this city construed General Order No. 1, issued from Headquarters Third Military District, dated Montgomery, Ala., April 1, 1867, to mean that their duties as public officers shall cease on the expiration of their term of service, and believing that it was not contemplated by the commanding general of this military district that the city should be left without a civil government, I, therefore, by the power vested in me as commanding officer of this post, do hereby order said civil authorities to continue to perform their civil duties until such time as the appointments referred to in section 4 of said General Order No. 1 be received and duly promulgated at this post.

T. W. SWEET,

Orders in Fourth Military District.

HEADQUARTERS FOURTH MILITARY DISTRICT,
VICKSBURG, March 26, 1867.

General Orders, No. 1.

1. The undersigned having been appointed by the President to command the Fourth Military District, consisting of the States of Mississippi and Arkansas, hereby assumes command thereof.

2. Competent civil officers in this District are expected to arrest and punish all offenders against the law, so as to obviate as far as possible, necessity for the exercise of military authority under the law of Congress, passed March 2, 1867, creating military districts.

3. Such other orders as may become necessary to carry out the above-named act, and an act supplemental thereto, will be duly published.

E. O. C. Ord.,
Brev. Major and Brig. Gen. U. S. A.

Orders in Fifth Military District.

HEADQUARTERS FIFTH MILITARY DISTRICT,
NEW ORLEANS, La., March 9, 1867.

General Orders, No. 13.

No commander having yet been appointed for the military district of Louisiana and Texas, created by the recent law of Congress, entitled “An act to provide for the more efficient government of the rebel States,” and Brevet Major-General Mower, commanding in this city, and the mayor and chief of police of the city of New Orleans having all expressed to me personally their fears that the public peace may be disturbed by the election for some of the city officers ordered by an act of the legislature of Louisiana, to take place on Monday, the 11th instant, and that body, at a special session, having refused to postpone said election, thereby rendering it necessary that measures for the preservation of the peace should be taken, I hereby assume the authority conferred upon the district commanders provided for in the act of Congress above cited, so far as it is necessary to declare that no such election shall take place. It is, therefore, ordered that for the preservation of the public peace, no polls shall be opened on that day, and that the elections shall be postponed until the district commander, under the law, is appointed, or special instructions are received covering the case.

P. H. SHERIDAN,
Major General Commanding.

HEADQUARTERS FIFTH MILITARY DISTRICT,
NEW ORLEANS, La., March 10, 1867.

General Orders, No. 1.

I. The act of Congress entitled “An act to provide for the more efficient government of the rebel States” having been officially transmitted to the undersigned in an order from the Headquarters of the Army, which assigns him to the command of the Fifth Military District created by that act, consisting of the States of Louisiana and Texas, he hereby assumes command of the same.

II. According to the provisions of the sixth section of the act of Congress above cited, the present State and municipal governments in the States of Louisiana and Texas are hereby declared to be provisional only, and subject to be abolished, modified, controlled, or superseded.

III. No general removals from office will be made, unless the present incumbents fail to carry out the provisions of the law, or impede the reorganization, or unless a delay in reorganizing should necessitate a change. Pending the reorganization, it is desirable to create as little disturbance in the machinery of the various branches of the provisional governments as possible, consistent with the law of Congress and its successful execution; but this condition is dependent upon the disposition shown by the people, and upon the length of time required for reorganization.

IV. The States of Louisiana and Texas will retain their present military designations, viz: “District of Louisiana,” and “District of Texas.” The officers in command of each will continue to exercise all their military powers, and duties as heretofore, and will, in addition, carry out all the provisions of the law within their respective commands, except those which specifically require the action of the military district commander, and except in cases of removals from and appointments to office.

P. H. SHERIDAN,
Major General Commanding.

HEADQUARTERS FIFTH MILITARY DISTRICT,
NEW ORLEANS, La., March 27, 1867.

General Orders, No. 5.

Andrew S. Herron, attorney general of the State of Louisiana; James T. Monroe, mayor of New Orleans; Edmund Abell, judge of the first district court of the city of New Orleans, are
PROCLAMATIONS AND ORDERS.

Headquarters Fifth Military District,
New Orleans, La., April 10, 1867.

Special Orders, No. 15.

1. In obedience to the directions contained in the first section of the law of Congress, entitled "An act supplemental to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the registration of the legal voters, according to the law of the parish of Orleans, will commence on the 15th instant, and must be completed by the 15th of May.

The four municipal districts of the city of New Orleans, and the parish of Orleans, right bank, (Algiers,) will each constitute a registration district. Election precincts will remain as at present constituted.

The following appointments of boards of registrars is hereby made—to continue in office until further orders, viz:

Second District—Edward Ames, T. C. Thomas, and Michael Vidal.
Fourth District—John L. Davies, Henry Bensol, Jr., and Edmund Flood.

Orleans Parish, right bank—W. H. Seymour, Thomas Kenefic, and George Herbert.

Each member of the board of registrars, before commencing his duties, will file in the office of the assistant inspector general at these headquarters the oath required in the sixth section of the act referred to, and be governed in the exercise of his powers and duties by the provisions of the first section of that act, faithfully administering the oath therein prescribed to each person registered.

Boards of registrars will immediately select suitable offices, within their respective districts, having reference to convenience and facility of registration, and will enter upon their duties on the day designated. Each board will be entitled to two clerks. Office hours for registration will be from 8 o'clock till 12 a.m., and from 4 till 7 p.m.

When elections are ordered the board of registrars for each district will designate the number of polls and the places where they shall be opened in the election precincts within its district; apportion the same to the districts, and other officials necessary for properly conducting the elections, and will superintend the same.

They will also receive from the commissioners of elections of the different precincts the result of the vote, consolidate the same, and forward it to the commanding general.

Registers and all officers connected with elections will be held to a rigid accountability, and will be subject to trial by military commission for fraud, or unlawful or improper conduct in the performance of their duties. Their rate of compensation and manner of payment will be in accordance with the provisions of sections 6 and 7 of the supplemental act.

Brevet Brigadier General J. W. Forsyth, assistant inspector general of the Fifth Military District, is hereby directed to supervise the boards of registration for the parish of Orleans, to listen to and adjust, or refer to this office, all just causes of complaint. He is authorized to employ such experts as may be necessary to detect fraud in registration or elections.

Every male citizen of the United States twenty-one years old and upward, of whatever race, color, or previous condition, who has been resident in the State of Louisiana for one year, and is disfranchised by law, will be entitled to vote, shall be registered as a legal voter in the parish of Orleans and State of Louisiana.

Pending the decision of the Attorney General of the United States on the question as to who are disfranchised by law, registrars will give the most rigid interpretation to the law, and exclude from registration every person about whose right to vote there may be a doubt. Any person so excluded who may, under the decision of the Attorney General, be entitled to vote, shall be registered as a legal voter in the parish of Orleans and State of Louisiana.

By command of Major General F. H. Sheridan.

A MILITARY COMMISSION APPOINTED.

The New Orleans Republican of the 13th of April, says:

General Sheridan has ordered a military commission to meet in this city on Monday next, 15th instant, for the trial of Mr. Walker, and such other persons as may be properly brought before it. The following is the detail for the commission: Brevet Major General A. Beckwith, Brevet Brigadier General C. G. Sawtelle, Brevet Colonel M. McLean, Brevet Colonel A. D. Nelson, Brevet Major M. J. Asch, Captain J. D. DeKassey, First Lieutenant John Hamilton. Brevet Major Leslie Smith, judge advocate.

TENNESSEE.

ORDER OF GEN. GRIFFIN.

Gen. Griffin, in command of the State, issued the following order on the 5th inst.:

Under the act of Congress passed March 2, 1867, to provide for a more efficient government of the rebel States, and the supplementary act thereof, the district commanders are required 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. Jurisdiction of offenses may be taken, and offenders tried by the local civil tribunals, but where
it is evident that local civil tribunals will not impartially try cases brought before them, and render decisions according to law and evidence, the immediate military commander will arrest or cause the arrest of the offenders or criminals, and hold them in confinement, presenting their cases in writing, with all the facts, to these headquarters, with the view to the said parties being brought before and tried by a military commission or tribunal, as provided in section three of the military bill.

Proclamation of Gov. Brownlow, of Tennessee, February 25, 1867.

Whereas, it has been made known to me, the Governor of the State of Tennessee, that certain atrocious murders and numerous outrages have been committed in certain counties in this State, by violent and disloyal men, upon the persons and property of Union men, whose only offense has been their unswerving devotion to the national flag, and their uniform support of the State government; and whereas these bad men are banding themselves together in some locality, and notifying Union men to leave within a given time: Now, therefore, I, William G. Brownlow, Governor as aforesaid, by virtue of the authority and power in me vested, do hereby proclaim, that I intend to put a stop to all such outrages at once cease in every county in the State. Disloyal men are giving forth their vile utterances in railroad cars, in public hotels, on the streets, and through the newspapers, damaging the material interests of the State, those of commerce, those of the mechanic arts, of religion and education, as well as bringing reproach upon the Commonwealth.

I cannot, however, close this brief proclamation without endeavoring to impress upon my fellow-citizens of all parties the importance, the absolute necessity, of remaining quiet, of preserving good order, and a quiet submission to, and a rigid enforcement of, the laws everywhere within the limits of our State. Outrages upon loyal citizens, whether white or black, and the setting aside of the franchise law, are all the work of bad men, who desire to foment strife, and will not be tolerated.

Prudent and experienced men will be placed in charge of the "State Guard" in every county where they are placed, who will be required to protect all good citizens, irrespective of political parties, and to punish murderers, robbers, and all violators of law. And the number of troops called into active service will be increased or diminished as the good or bad conduct of the people shall be developed. Hoping this proclamation will strengthen the hands and inspire the hearts of the loyal people of our State, as to the future, and deter the disloyal from further acts of violence, I respectfully submit it, with a repetition of the assurance that I mean what I say, and that the General Assembly was in earnest in the passage of this military law.

In testimony whereof I have hereunto set my hand and caused the great seal of the State to be affixed at the executive department in Nashville, on the twenty-fifth day of February, 1867.

[LR.] WILLIAM G. BROWNLOW, Commander-in-Chief, &c.
THE SUPREME COURT.

On Trial by Military Commissions, Dec. 17, 1866.
No. 350.—December Term, 1865.

Ex parte in matter of Lambdin P. Milligan, petitioner. On a certificate of division of opinion between the judges of the Circuit Court of the United States for the District of Indiana.

Mr. Justice Davis delivered the opinion of the Court.

On the 10th day of May, 1865, Lambdin P. Milligan presented a petition to the circuit court of the United States for the district of Indiana, to be discharged from an alleged unlawful imprisonment. The case made by the petition is this: Milligan is a citizen of the United States; he had lived for two years in Indiana, and at the time of the grievances complained of was not, and never had been, in the military or naval service of the United States. On the 5th day of October, 1864, while at home, he was arrested by order of General Alvin P. Hovey, commanding the military district of Indiana, and has ever since been kept in close confinement.

On the 21st day of October, 1864, he was brought before a military commission, convened at Indianapolis by order of General Hovey, trying on certain charges and specifications, found guilty, and sentenced to be hanged, and the sentence ordered to be executed on Friday, the 15th day of May, 1865.

On the 2d day of January, 1865, after the proceedings of the military commission were at an end, the circuit court of the United States for Indiana met at Indianapolis and empaneled a grand jury, who were charged to inquire whether the laws of the United States had been violated, and if so, to make presentments. The court adjourned on the 27th day of January, having prior thereto discharged from further service the grand jury, who did not find any bill of indictment or make any presentment against Milligan for any offense whatever; and, in fact, since his imprisonment no bill of indictment has been found or presentment made against him by any grand jury of the United States.

Milligan insists that said military commission had no jurisdiction to try him upon the charges preferred, or upon any charges whatever; because he was a citizen of the United States and of the State of Indiana, and had not been, since the commencement of the late rebellion, a resident of any of the States whose citizens were arrayed against the Government, and that the right of trial by jury was guaranteed to him by any of the States whose citizens were arrayed against the Government, and that the right of trial by jury was guaranteed to him by the Constitution of the United States.

The prayer of the petition was, that under the circumstances, as approved March 3, 1863, entitled "An act relating to habeas corpus, and regulating judicial proceedings in certain cases," he may be brought before the court, and either turned over to the proper civil tribunal, to be proceeded against according to the law of the land, or discharged from custody altogether.

With the petition were filed the order for the commission, the charges and specifications, the findings of the court, with the order of the War Department, reciting that the sentence was approved by the President of the United States, and directing that it be carried into execution without delay. The petition was presented and filed in open court by the counsel for Milligan; at the same time the district attorney of the United States for Indiana appeared, and, by the agreement of counsel, the application was submitted to the court. The opinions of the judges of the circuit court were opposed on three questions, which are certified to the Supreme Court:

1st. "On the facts stated in said petition and exhibits, ought a writ of habeas corpus to be issued?"
2d. "On the facts stated in said petition and exhibits, ought the said Lambdin P. Milligan to be discharged from custody, as in said petition prayed?"
3d. "Whether, upon the facts stated in said petition and exhibits, ought the said Lambdin P. Milligan to be discharged from custody, as in said petition prayed?"

The importance of the main question presented by this record cannot be overstated; for it involves the very framework of the Government and its fundamental principles of American liberty. During the late wicked rebellion, the temper of the times did not allow that calmness in deliberation and discussion so necessary to a correct conclusion of a purely judicial question. Then considerations of safety were mingled with the exercise of power, and feelings and interests prevailed which are happily terminated. Now that the public safety is assured, this question, as well as all others, can be discussed and decided without passion or the admixture of any element not required to form a legal judgment. We approach the investigation of this case, fully sensible of the magnitude of the inquiry and the necessity of full and cautious deliberation. But we are met with a preliminary objection. It is insisted that the Circuit Court of Indiana had no authority to certify these questions, and that the United States Court of Appeals was the proper tribunal to entertain them. The sixth section of the "Act to amend the judicial system of the United States," approved April 23, 1862, declares "that whenever any question shall occur before a circuit court, upon which the opinions of the judges shall be opposed, the point upon which the disagreement shall happen shall, during the same term, upon the request of either party or their counsel, be stated under the direction of the judges, and certified, under the seal of the court, to the Supreme Court, as their next session to be held thereafter, and shall by the said Court be finally

JUDICIAL OPINIONS.
decided; and the decision of the Supreme Court and their order in the premises shall be remitted to the circuit court and be there entered of record, and shall have effect according to the nature of the said judgment and order: Provided, That nothing herein contained shall prevent the cause from proceeding, if, in the opinion of the court, further proceedings can be had without prejudice to the merits."

It is under this provision of law that a circuit court has authority to certify any question to the Supreme Court for adjudication. The inquiry, therefore, is, whether the case of Milligan is brought within its terms. It was admitted by the bar that the circuit court had jurisdiction to entertain the application for the writ of habeas corpus and to hear and determine it; and it could not be denied, for the power is expressly given in the 14th section of the judiciary act of 1789, as well as in the later act of 1863. Chief Justice Marshall, in Bollman's case, (4 Cranch,) construed this branch of the judiciary act to authorize the courts as well as the judges to issue the writ for the purpose of inquiring into the cause of the commitment; and this construction has never been departed from. But it is maintained with earnestness and ability that a certificate of division of opinion can occur only in a cause; and that the proceeding by a party moving for writ of habeas corpus does not become a cause until after the writ has been issued and a return made.

Independently of the provisions of the act of Congress of March 3, 1863, relating to habeas corpus, on which the petitioner bases his claim for relief, and which we will presently consider, can this position be sustained?

It is true that it is usual for a court, on application for a writ of habeas corpus, to issue the writ, and on the return to dispose of the case; but the court can elect to waive the issuing of the writ and consider whether, upon the facts presented in the petition, the prisoner, if brought before the court, could be discharged. One of the very points on which the case of Tobias Watkins, reported in 3 Peters, turned was, whether, if the writ was issued, the petitioner would be remanded upon the plea which he had made.

The Chief Justice, in delivering the opinion of the Court, said: "The cause of imprisonment is shown as fully by the petitioner as it could appear on the return of the writ; consequently the writ ought not to be awarded if the court is satisfied that the prisoner would be remanded to prison."

The judges of the circuit court of Indiana were therefore warranted by an express decision of this Court in refusing the writ, if satisfied that the prisoner, on his own showing, was rightfully imprisoned, and could render no judgment, the prisoner is remediless, and cannot have the disputed question certified under the act of 1862. His remedy is complete by writ of error or appeal, if the court renders a final judgment refusing to discharge him; but if he should be so unfortunate as to be placed in the predicament of having the court divided on the question whether he should live or die, he is hopeless and without remedy. He wishes the vital question settled, not by a single judge at his instance, but by the highest tribunal known to the Constitution; and yet the privilege is denied him, because the circuit court consists of two judges instead of one. Such a result was not in the contemplation of the Legislature of 1862, and the language used by it cannot be construed to mean any such thing. The clause under consideration was introduced to further the ends of justice by obtaining a speedy settlement of important questions where the judges might be opposed in opinion.

The act of 1802 so changed the judicial system that the circuit court, instead of three, was composed of two judges and in the act of 1863, Chief Justice Marshall, in Bollman's case, (9 Wheaton) the court, in holding that division of the judges on a motion for a new trial could not be certified, says: "That the question must be one which arises in a case depending before the court relative to a proceeding belonging to the cause." Testing Milligan's case by this rule of law, is it not apparent that the right of appeal was rightfully here, and that we are compelled to answer the question that the judges below were opposed in opinion? If, in the sense of the law, the proceeding for the writ of habeas corpus was the "cause" of the party applying for it, then it is evident that the "cause" was pending before the court, and that the questions certified arose out of it, belonged to it, and were matters of right and not of discretion.

But it is argued that the proceeding does not ripen into a cause until there are two parties to it. This we deny. It was the cause of Milligan when the petition was presented to the circuit court. It would have been the cause of both parties, if the court had issued the writ and brought those who held Milligan in custody before it. Webster defines the word "cause" thus: "A suit or action in court; any legal process or proceeding belonging to a cause; and which a party institutes to obtain his demand, right—or supposed right—and he says, "this is a legal, scriptural, and popular use of the word, coinciding nearly with case, from cedo, and action, from ago, to urge and drive."

In any legal sense, action, suit, and cause are convertible terms. Milligan supposed he had a right to test the validity of his trial and sentence; and the proceeding which he set in operation for that purpose was his "cause." It was the only one by which he could recover his liberty. He was powerless to do more; he could neither instruct the judges nor control their action, and should not suffer, because without fault of his, they were unable to render a judgment. But the true meaning to the term "suit" has been given by this Court. One of the questions in Weston vs. City Council of Charleston (2 Pet.) was, whether a writ of prohibition was a suit; and Chief Justice Marshall says: "The term is certainly a comprehensive one and is understood to apply to any proceeding in a court of justice by which an individual pursues a remedy which the law affords him."
Certainly Milligan pursued the only remedy which the law afforded him.

Again, in Cohens vs. Virginia, (6 Wheaton,) he says: "In law language a suit is the prosecution of some demand in a court of justice." Also, "to commence a suit is to demand something by the institution of process in a court of justice; and to prosecute the suit is to continue that demand." When Milligan demanded his release by the proceeding, equal to *habeas corpus* he commenced a suit, and he has since prosecuted it in all the ways known to the law. One of the questions in Holmes vs. Jennison (14 Peters,) was, whether under the 25th section of the judiciary act a proceeding for a writ of *habeas corpus* was a "suit." Chief Justice Taney held that, "if a party is unlawfully imprisoned, the writ of *habeas corpus* is his appropriate legal remedy. It is a suit in court to recover his liberty." There was much diversity of opinion on another ground of jurisdiction, but on this, that in the sense of the 25th section of the judiciary act, the proceeding for a writ of *habeas corpus* was a suit, was not controverted by any except Baldwin, Justice, and he thought that "suit" and "cause," as used in the section, mean the same thing.

The court do not say that a return must be made and the parties appear and begin to try the case before it is a suit. When the petition was made and the parties appear and begin to try the case, it is by the analogies of the law, equally a suit under the 6th section of the act of 1802.

But it is argued that there must be two parties to the suit, because the point is to be stated upon the request of "either party or their counsel." Such a literal and technical construction would defeat the very purpose the Legislature had in view, which was to enable any party to bring the case here, when the point in controversy was a matter of right and not of discretion; and the words "either party," in order to prevent a failure of justice, must be construed as words of enlargement, and not restriction. Although this case is *ex parte*, it was not considered by the court below without notice having been given to the party supposed to have an interest in the detention of the prisoner! The statements of the record show that this is not only a fair, but conclusive inference. When the counsel for Milligan presented to the court the petition for the writ of *habeas corpus*, Mr. Hanna, the district attorney for Indiana, also appeared, and, by agreement, the application was submitted to the court, who took the case under advisement, and on the next day announced their inability to agree, and made the certificate.

It is clear that Mr. Hanna did not represent the petitioner, and why is his appearance entered? It admits of no other solution than this—that he was the author of the application, and appeared on behalf of the Government to contest it. The Government was the prosecutor of Milligan, who claimed that his imprisonment was illegal, and sought, in the only way he could, to recover his liberty. The case was a grave one; and the court, unequivocally directed that the law officer of the Government should be informed of it. He very properly appeared, and as the facts were uncontested and the difficulty was in the application of the law, there was no useful purpose to be obtained in issuing the writ. The cause was, therefore, submitted to the court, for their consideration and determination. But Milligan claimed his discharge from custody by virtue of the act of Congress "relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved March 3, 1863. Did that act confer jurisdiction on the circuit court of Indiana to hear this case? In interpreting a law, the motives which must have operated with the legislature in passing it are proper to be considered. This law was passed in a time of great national peril, when our heritage of free government was in danger. An armed rebellion against the national authority, of greater proportions than history affords an example, was raging; and the public safety required that the privilege of the writ of *habeas corpus* should be suspended. The President had practically suspended it, and detained suspected persons in custody without trial; but his authority to do this was questioned. It was claimed that Congress alone could exercise this power, and that the legislature, and not the President, should judge of the political considerations on which the right to suspend it rested. The privilege of this great writ had never before been withheld from the citizen; and, as the exigence of the times demanded immediate action, it was of the highest importance that the lawfulness of the suspension should be fully established. It was under these circumstances, which were such as to arrest the attention of the country, that this law was passed. The President was authorized by it to suspend the privilege of the writ of *habeas corpus* whenever, in his judgment, the public safety required; and he did, by proclamation, bearing date the 15th of September, 1863, recting among other things the authority of this statute, suspend it. The suspension of the writ does not authorize the arrest of any one, but simply denies to one arrested the privilege of this writ in order to obtain his liberty.

It is proper, therefore, to inquire under what circumstances the courts could rightfully refuse to grant this writ, and when the citizen was at liberty to invoke its aid.

The second and third sections of the law are explicit on these points. The language used is plain and direct, and the meaning of the Congress cannot be mistaken. The public safety demanded, if the President thought proper to arrest a suspected person, that he should not be required to give the cause of his detention on return to a writ of *habeas corpus*. But it was not contended that such person should be detained in custody beyond a certain fixed period, unless certain judicial proceedings known to the common law were commenced against him. The Secretaries of State and War were directed to furnish to the judges of the courts of the United States a list of the names of all parties, not prisoners of war, resident in their respective jurisdictions, who then were or afterwards should be held in custody by the authority of the President, and who were citizens of States in which
the judges could not agree on questions vital to the progress of the case they had the authority, (as we have shown in a previous part of this opinion,) and it was their duty to certify those questions of disagreement to this Court for final decision. It was agreed that a final decision on the questions presented ought not to be made, because the parties who were directly concerned in the arrest and detention of Milligan were not before the court; and their rights might be prejudiced by the answer which should be given to those questions. But this court cannot know what return will be made to the writ of habeas corpus for decision, a final decision means final upon the points certified; final upon the court below, so that it is stopped from any adverse ruling in all the subsequent proceedings of the cause. But it is said that this case is ended, as the presumption is that Milligan was hanged by the order of the President. Although we have no judicial information on the subject; yet the inference is that he is alive; for otherwise learned counsel would not appear for him and urge the Court to decide his case.

It can never be in this country of written constitution and laws, with a judicial department to interpret them, that any Chief Magistrate would be so far forgetful of his duty as to order the execution of a man who denied the jurisdiction that tried and convicted him, after his case was before federal judges, with power to decide it; for the case is of the President. Although we have no judicial information on the subject; yet the inference is that he is alive; for otherwise learned counsel would not appear for him and urge the Court to decide his case.

The controlling question in the case is this: Upon the facts stated in Milligan's petition, and the exhibits filed, had the military commission mentioned in its jurisdiction legally to try and sentence him? Milligan, not a resident of one of the rebellious States, or a prisoner of war, but a citizen of Indiana for twenty years past, and never in the military or naval service in India, arrested by the military power of the United States, imprisoned, and, on certain criminal charges preferred against him, tried, convicted, and sentenced to be hanged by a military commission, organised under the direction of the military commander of the military district of Indiana. Had this tribunal the legal power and authority to try and punish this man? No graver question was ever considered by this Court, nor one which more nearly concerns the rights of the whole people; for it is the birthright of every American citizen, when charged with crime, to be tried and punished according to the laws under which he lives. The power of punishment is alone through the means which the laws have provided for that purpose, and if they are ineffectual there is an immunity from punishment, no matter how great an offender the individual may be, or how much his crimes may have shocked the sense of
justice of the country or endangered its safety. By the protection of the law human rights are secured; withdraw that protection, and they are at the mercy of wicked rulers, or the clamor of an excited people. If there was law to justify this military trial, it is not our province to interfere; if there was not, it is our duty to declare the nullity of the whole proceedings. The decision of this question does not depend on argument or judicial precedents, numerous and highly illustrative as they are. These precedents inform us of the extent of the struggle to preserve liberty and to avenge those in civil life from military trials. The founders of our Government were familiar with the history of that struggle, and secured in a written constitution every right wrested from power during a contest of ages. By that Constitution, and the laws authorized by it, this question must be determined. The provisions of that instrument in the administration of criminal justice are too plain and direct to leave room for misconstruction or doubt of their true meaning. Those applicable to this case are found in the clause of the original Constitution which says, "that the trial of all crimes, except in case of impeachment, shall be by jury;" and in the fourth, fifth, and sixth articles of the amendments. The fourth proclaims the right to be secure in person and effects against unreasonable search and seizure; and directs that a judicial warrant shall not issue "without proof of probable cause supported by oath or affirmation." The fifth declares "that no person shall be held to answer for a capital or otherwise infamous crime unless on presentment by a grand jury, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger, nor be deprived of life, liberty, or property without due process of law." And the sixth guarantees the right of trial by jury in such manner and with such regulations that with upright judges, impartial juries, and an able bar, the innocent will be saved and the guilty punished. It is in these words: "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall be committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against them, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense." These securities for personal liberty thus embodied, were such as wisdom and experience had demonstrated to be necessary for the protection of those accused of crime. And so strong was the sense of the country of their importance, and so jealous were the people that these rights, highly prized, might not be taking away by implication, that when the original Constitution was proposed for adoption, it encountered severe opposition, and, but for the belief that it would be so amended as to embrace them, it would never have been ratified.

Time has proven the discernment of our ancestors; for even these provisions, expressed in such plain English words that it would seem the ingenuity of man could not evade them, are now, after the lapse of more than seventy years, sought to be avoided. Those great and good men foresaw that troublous times would arise, when rulers and people would become restive under restraint, and seek, by sharp and decisive measures, to accomplish ends deemed just and proper, and that the principles of constitutional liberty would be in peril, unless established by irrevocable law. The history of the world had taught them what was done in the past might be attempted in the future. The Constitution of the United States is a law for rulers and people, equally in war and in peace, and to secure them the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wits of man than that any of its provisions can be suspended during any of the great exigencies of Government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false; for the Government, within the Constitution, has all the powers granted to it which are necessary to preserve its existence, as has been happily proved by the result of the great effort to throw off its just authority.

Have any of the rights guaranteed by the Constitution been violated in the case of Milligan? and, if so, what are they? Every trial involves the exercise of judicial power; and from what source did the military commission that tried him derive their authority? Certainly no part of the judicial power of the country was conferred on them, because the Constitution expressly vests it "in the Supreme Court and such inferior courts as the Congress may, from time to time, ordain and establish," and it is not pretended that the commission was a court ordained and established by Congress. They cannot justify the mandate of the President, because he is controlled by law, and has his appropriate sphere of duty, which is to execute, not to make the laws; and there is "no unwritten criminal code to which resort can be had as a source of jurisdiction." But it is said that the jurisdiction is complete under the "laws and usages of war." It can serve no useful purpose to inquire what those laws and usages are, whence they originated, where found, and on whom they operate; they can never be applied to cases in States which have upheld the authority of the Government, and where the courts are open and their process unobstructed. This Court has judicial knowledge that in Indiana the Federal authority was always unopposed, and its courts always open to hear criminal accusations and to redress grievances; and no usage of war could sanction a military trial there, for any offence whatever of a citizen in civil life, in no wise connected with the military service. Congress could grant no such power; and, to the honor of our National Legislature, it is said, it has never been provoked by the state of the country even to attempt its exercise. One of the plainest constitutional provisions was, therefore, infringed when Milligan was tried by a court not ordained and established by Congress, and not composed of judges appointed during good behavior. Why was he not delivered to the court of Indiana, to be proceeded against according to law?
No reason of necessity could be urged against it, because Congress had declared penalties against the offenses charged, provided for their punishment, and directed that court to hear and determine them. And soon after this military tribunal was ended the circuit court met, peacefully transacted its business, and adjourned. It needed no bullwhip to protect it, and required no military aid to execute its judgments. It was held in a State eminently distinguished for patriotism by judges commissioned during the rebellion, who were provided with juries, upright, intelligent, and selected by a marshal appointed by the President. The Government had no right to conclude that Milligan, if guilty, would not receive in that court merits punishment, for its records disclose that it was constantly engaged in the trial of similar offenses, and was never interrupted in its administration of criminal justice. If it was dangerous in the distracted condition of affairs to leave Milligan unrestrained with proofs of his guilt, and, if indicted, try him according to the course of the common law. If this had been done the Constitution would have been vindicated, the law of 1863 enforced, and the securities for personal liberty preserved and defended.

Another guaranty of freedom was broken when Milligan was denied a trial by jury. The great minds of the country have differed on the correct interpretation to be given to various provisions of the Federal Constitution; and judicial decision has been often invoked to settle their true meaning; but until recently no one ever doubted that the right of trial by jury was fortified in the ocean of the Constitution. What Mr. Webster said in his Autobiography is now assailed; but, he said, arrest him, confine him closely, render him powerless to do further mischief, and then present his case to the grand jury of the district, with proofs of his guilt, and, if indicted, try him according to the course of the common law. If this had been done the Constitution would have been vindicated, the law of 1863 enforced, and the securities for personal liberty preserved and defended.

It is claimed that martial law covers with its broad mantle the proceedings of this military commission. The proposition is this: That in a time of war the commander of an armed force (if, in his opinion, the exigencies of the country demand it, and of which he is to judge,) has the power, within the lines of his military district, to suspend all civil rights and their remedies, and subject citizens as well as soldiers to the rule of his will; and in the exercise of his lawful authority cannot be restrained, except by his superior officer or the President of the United States. If this position is sound to the extent claimed, then when war exists, foreign or domestic, and the country is subdivided into military departments for mere convenience, the commander of one of them can, within his limits, on the plea of necessity, with the approval of the Executive, substitute military force for and to the exclusion of the laws, and punish all persons as he thinks right and proper, without fixed or certain rules.

The statement of this proposition shows its importance; for, if true, republican government is a failure, and there is an end of liberty regulated by law. Martial law, established on such a basis, destroys every guarantee of the Constitution, and effectually renders the "military independent of and superior to the civil power"—the attempt to do which by the King of Great Britain was deemed by our fathers such an offense that they assigned it to the world as one of the causes which impelled them to declare their independence. Civil liberty and this kind of martial law cannot endure together; the antagonism is irreconcilable, and in the conflict one or the other must perish.

This nation, as experience has proved, cannot always remain at peace, and has no right to expect that it will always have wise and humane rulers, sincerely attached to the principles of the Constitution. Wicked men, ambitious of power, with hatred of liberty, and content in law, may fill the place once occupied by Washington and Lincoln; and, if this right is conceded, and
The calamities of war again befall us, the dangers to human liberty are frightful to contemplate. If our fathers had failed to provide for just such a contingency, they would have been false to the trust reposed in them. They knew—the history of the world told them—the nation they were founding, be its existence short or long, would be involved in war—how often, or how long continued, human foresight could not tell—and that unlimited power, wherever lodged at such a time, was especially hazardous to freemen. This and other equally weighty reasons, in support of the preservation of the Constitution, were the more necessary by a good government to sustain its justice, or to prevent rebellion to cripple their resources and enable the enemy, the occasion was furnished to establish martial law. The conclusion does not follow from the premises. If armies were collected in Indiana, they were to be employed in another locality, where the laws were obstructed and the national authority disputed. Indiana had no hostile foot; if once invaded, that invasion was at an end, and with it all pretext for martial law. Martial law cannot arise from a threatened invasion. The nation must be actual and present, the invasion real—such as effectually closes the courts and deposes the civil administration.

It follows, from what has been said on this subject, that there are occasions when martial rule can be properly applied. If in foreign invasion or civil war the courts are actually closed, and it is impossible to administer criminal justice according to law, then on the theater of active military operations, where war really prevails, there is a necessity to furnish a substitute for the civil authority thus overturned to preserve the safety of the army and society; and as no power is left but the military, it is allowed to govern by martial rule until the laws can have their free course. As necessity creates the rule, so it limits its duration; for if this government is continued after the courts are reinstated, it is a gross usurpation of power. Martial rule can never exist where the courts are open, and in the possession of the authority. It is also confined to the locality of actual war. Because during the late rebellion it could have been enforced in Virginia, where the national authority was overturned and the courts driven out, it does not follow that it should obtain in Indiana, where that authority was never disputed, and justice was always administered. And so in the case of a foreign invasion, martial rule may become a necessity in one State, where in another it would be "mere lawless violence." We are not without precedents in English and American history illustrating our views of this question; but it is hardly necessary to make particular reference to them.

From the first year of the reign of Edward the Third, when the Parliament of England reversed the attainder of the Earl of Lancaster, because he could have been tried by the courts of the realm, and declared "that in time of peace no
man ought to be adjudged to death for treason or any other offence without being arraigned and held to answer, and that regularly when the king's courts are open it is a time of peace in judgment of law, "down to the present day," martial law, as claimed in this case, has been condemned by all respectable English jurists as contrary to the fundamental laws of the land, and subversive of the liberty of the subject.

During the present century, an instructive debate on this question occurred in Parliament, occasioned by the trial and conviction by court martial at Demarara of the Rev. John Smith, a missionary to the negroes, on the alleged ground (reported in 12 Johnson,) that resistance became an enormous crime. So sensitive were our Revolutionary fathers on this subject that Boston was almost in a state of siege when General Gage issued his proclamation of martial law, they spoke of it as an "attempt to supersede the course of the common law, and instead thereof to publish and order the use of martial law." The Virginia Assembly also denounced a similar measure on the part of Governor Dunmore "as an assumed power, which the king himself cannot exercise, because it annuls the law of the land and introduces the most execrable of all systems, martial law."

In some parts of the country, during the war of 1812, our officers made arbitrary arrests, and by military tribunals tried citizens who were not in the military service. These arrests and trials, when brought to the notice of the courts, were uniformly condemned as illegal. The cases of Smith vs. Shaw, and McConnell vs. Hampton, (reported in 12 Johnson,) are illustrations which we cite, not only for the principles they determine, but because the decisions of the distinguished jurists concerned in the decisions, one of whom for many years occupied a seat on this bench.

It is contended that Luther vs. Borden, decided by this court, is an authority for the claim of martial law advanced in this case. The decision is misapprehended. That case grew out of the attempt in Rhode Island to supersede the old colonial government by a revolutionary proceeding. Rhode Island at that period had no other form of local government than the charter granted by King Charles II in 1663, and as that document was nullified by the Revolution of 1776, and the citizens had not provided for its own amendment, many citizens became dissatisfied because the Legislature would not afford the relief in their power, and without the authority of law formed a new and independent constitution, and proceeded to assert its authority by force of arms. The old government resisted this, and as the rebellion was formidable, called out the militia to subdue it, and passed an act declaring martial law.

Borden, in the military service of the old government, broke open the house of Luther, who supported the new in order to arrest him. Luther brought suit against Borden, and the question was, whether, under the constitution and laws of the State, Borden was justified. This court held that a State "may use its military power to put down an armed insurrection too strong to be controlled by the civil authority," and if the Legislature of Rhode Island thought the peril so great as to require the use of its military forces and the declaration of martial law, there was no ground on which this court could question its authority, and as Borden acted under military orders of the charter government, which had been declared illegal, yet, if guilty of the crimes imputed to him, and his guilt had been ascertained by an established court and impartial jury, he deserved severe punishment. Open resistance to measures deemed necessary to subdue a great rebellion by those who enjoy the protection of government, and have not the excuse of prejudice or section to plead in their favor, is wicked; but that resistance becomes an enormous crime when it assumes the form of a secret political organization armed to oppose the laws, and seeks by stealthy means to introduce the enemies of the State into peaceful communities, there to light the torch of civil war, and thus overthrow the power of the United States. Conspiracies like these, at such a juncture, are extremely perilous; and those concerned in them are dangerous enemies to their country, and should receive the heaviest penalties of the law, as an example to deter others from similar criminal conduct. It is said the severity of the laws caused them; but Congress was obliged to enact severe laws to meet the crisis; and as our highest civil duty is to serve our country, when in danger, the late war has proved that rigorous laws, when necessary, will be cheerfully obeyed by a patriotic people, struggling to preserve the rich blessings of a free government.

The two remaining questions in this case must be answered in the affirmative. The suspension of the privilege of the writ of habeas corpus does not suspend the writ for habeas corpus in case of habeas corpus, and as a matter of course; and on the return made to it, the court decides whether the party applying is denied the right of proceeding any further with it.

If the military trial of Milligan was contrary to law, then he was entitled on the facts stated in his petition, to be discharged from custody by the terms of the act of Congress of March 5, 1863.
The provisions of this law having been considered in a previous part of this opinion, we will not restate the views there presented. Milligan avers he was a citizen of Indiana, not in the military or naval service, and was detained in close confinement, by order of the President, from the 6th day of October, 1864, until the 2d day of January, 1865, when the circuit court for the district of Indiana, with a grand jury, convened in session at Indianapolis, and afterwards, on the 27th day of the same month, adjourned without finding an indictment or presentment against him. If these averments were true, (and their truth is conceded for the purposes of this case,) the court was required to liberate him on taking certain oaths prescribed by the law, and entering into recognizance for his good behavior. But it is clear that Milligan was a prisoner of war, and, therefore, excluded from the privileges of the statute. It is not easy to see how he can be treated as a prisoner of war, when he lived in Indiana for the past twenty years, was arrested there, and had not been, during the late troubles, a resident of any of the States in rebellion. If, in Indiana, he conspired with bad men to assist the enemy, he is punishable for it in the courts of Indiana; but, when tried for the offense, he cannot pleå the rights of war, for he was not engaged in legal acts of hostility against the Government, and only such persons, when captured, are prisoners of war. If he cannot enjoy the immunities attaching to the character of a prisoner of war, how can he be subject to their pains and penalties? This case, as well as the kindred cases of Bowles and Horsey, were disposed of at the last term, and the proper orders were entered of record. There is, therefore, no additional entry required.

Mr. Chief Justice Chase delivered the following opinion:

Four members of the court concurring with their brethren in the order heretofore made in this case, but unable to concur in some important particulars with the opinion which has just been read, think it their duty to make a separate statement of their views of the whole case.

We do not doubt that the circuit court for the district of Indiana had jurisdiction of the petition of Milligan for the writ of habeas corpus.

Whether this Court has jurisdiction upon the certificate of division admits of more question. The construction of the act authorizing such certificates which has hitherto prevailed here, denies jurisdiction in cases where the certificate brings up the whole cause before the court. But none of the adjudicated cases are exactly in point, and we are willing to receive whatever doubts may exist in favor of the earliest possible answers to questions involving life and liberty.

We agree, therefore, that this Court may properly answer questions certified in such a case as that before it.

The crimes with which Milligan was charged were of the gravest character, and the petition and exhibits in the record, which must here be taken as true, admit his guilt. But whatever his desert of punishment may be, it is more important to the country and to every citizen that he should not be punished under an illegal sentence, sanctioned by this Court of last resort, than that he should be punished at all. The laws which protect the liberties of the whole people must not be violated or set aside in order to inflict even upon the guilty, unauthorized, though merited justice.

The trial and sentence of Milligan were by military commission convened in Indiana during the fall of 1864. The action of the commission had been under consideration by President Lincoln for some time, when he himself became the victim of an abhorred conspiracy. It was approved by his successor in May, 1865, and the sentence was ordered to be carried into execution. The proceedings, therefore, had the fullest sanction of the executive department of the Government.

This sanction requires the most respectful and the most careful consideration of this Court. The sentence which it supports must not be set aside except upon the clearest conviction that it cannot be reconciled with the Constitution and the constitutional legislation of Congress.

We must inquire, then, what constitutional or statutory provisions have relation to this military proceeding.

The act of Congress of March 3d, 1863, comprises all the legislation which seems to require consideration in this connection. The constitutionality of this act has not been questioned, and is not doubted.

The first section authorized the suspension during the rebellion of the writ of habeas corpus throughout the United States by the President. The two next sections limited this authority in important respects.

The second section required that lists of all persons, being citizens of States in which the administration of the laws had continued unpunished in the Federal courts, who were then held or might thereafter be held as prisoners of the United States, under the authority of the President, otherwise than as prisoners of war, should be furnished to the judges of the circuit and district courts. The lists transmitted to the judges were to contain the names of all persons residing within their respective jurisdictions, charged with violation of national law. And it was required, in cases where the grand jury in attendance upon any of these courts should terminate its session without proceeding by indictment or otherwise against any prisoner named in the list, that the judge of the court should forthwith make an order that such prisoner, desiring a discharge, should be brought before him or the court to be discharged, on entering into recognizance, if required, to keep the peace and for good behavior, or to appear, as the court may direct, to be further dealt with according to law. Every officer of the United States, having custody of such prisoners, was required to obey and execute the judge's order, under penalty, for refusal or delay, of fine and imprisonment.

The third section provided, in case lists of persons other than prisoners of war then held in confinement, or thereafter arrested, should not be furnished within twenty days after the passage of the act, or, in cases of subsequent arrest, within twenty days after the time of arrest, that any citizen, after the termination of a session of
The grand jury without indictment or presentment, might, by petition alleging the facts, and verified by oath, obtain the judge's order of discharge in favor of any person so imprisoned, on the terms and conditions prescribed in the second section. It was made the duty of the district attorney of the United States to attend examinations on petitions for discharge.

It was under this act that Milligan petitioned the circuit court for the district of Indiana for discharge from imprisonment.

The holding of the circuit and district courts of the United States in Indiana had been uninterrupted. The administration of the laws in the Federal courts had remained unimpaired. Milligan was imprisoned under the authority of the President, and was not a prisoner of war. No list of prisoners had been furnished to the judges either of the district or circuit courts, as required by the law. A grand jury had attended the circuit courts of the Indiana district while Milligan was there imprisoned, and had closed its session without finding any indictment or presentment, or otherwise proceeding against the prisoner.

His case was thus brought within the precise letter and intent of the act of Congress, unless it can be said that Milligan was not imprisoned by authority of the President, and nothing of this sort was claimed in argument on the part of the Government.

It is clear upon this statement that the circuit court was bound to hear Milligan's petition for the writ of habeas corpus, called in the act an order to bring the prisoner before the judge or the court, and to issue the writ, or, in the language of the act, to make the order.

The first question therefore—Ought the writ to issue?—must be answered in the affirmative. And it is equally clear that he was entitled to the discharge prayed for.

It must be borne in mind that the prayer of the petition was not for an absolute discharge, but to be delivered from military custody and imprisonment, and if found probably guilty of any offence, to be turned over to the proper tribunal for inquiry and punishment; or, if not found thus probably guilty, to be discharged altogether.

And the express terms of the act of Congress required this action of the court. The prisoner must be discharged on giving such recognizance as the court should require, not only for good behavior, but for appearance, as directed by the court, to answer and be further dealt with according to law.

The first section of the act authorized the suspension of the writ of habeas corpus generally throughout the United States. The second and third sections limited this suspension in certain cases within States where the administration of justice by the Federal courts remained unimpaired. In these cases the writ was still to issue, and under it the prisoner was entitled to his discharge by a circuit or district judge or court, unless held to bail for appearance to answer charges. No other judge or court could make an order of discharge under the writ. Except under the circumstances pointed out by the act, neither circuit nor district judge or court could make such an order. But under those circumstances the writ must be issued, and the relief from imprisonment directed by the act must be afforded. The commands of the act were positive, and left no discretion to court or judge.

An affirmative answer must, therefore, be given to the second question, namely, Ought Milligan to be discharged according to the prayer of the petition?

That the third question, namely, Had the military commission in Indiana, under the facts stated, jurisdiction to try and sentence Milligan? must be answered negatively, is an unavoidable inference from affirmative answers to the other two.

The military commission could not have jurisdiction to try and sentence Milligan, if he could not be detained in prison under his original arrest or under sentence, after the close of a session of the grand jury, without indictment or other proceedings against him.

Indeed the act seems to have been framed on purpose to secure the trial of all offenses of citizens by civil tribunals in States where those tribunals were not interrupted in the regular exercise of their functions.

Under it, in such States, the privilege of the writ might be suspended. Any person regarded as dangerous to the public safety might be arrested and detained until after the session of a grand jury. Until after such session no person arrested could have the benefit of the writ, and even then no such person could be discharged, except on such terms as to future appearance as the court might impose. These provisions obviously contemplate no other trial or sentence than that of a civil court, and we could not assert the legality of a trial and sentence by a military commission, under the circumstances specified in the act and described in the petition, without disregarding the plain directions of Congress.

We agree, therefore, that the two first questions certified must receive affirmative answers, and the last a negative. We do not doubt that the positive provisions of the act of Congress require such answers. We do not think it necessary to look beyond these provisions. In them we find sufficient and controlling reasons for our conclusions.

But the opinion which has just been read goes further, and, as we understand it, asserts not only that the military commission held in Indiana was not authorized by Congress, but that it was not in the power of Congress to authorize it, from which it may be thought to follow that Congress has no power to indemnify the officers who composed the commission against any liability in civil courts for acting as members of it.

We cannot agree to this.

We agree in the proposition that no department of the Government of the United States—neither President nor Congress nor the courts—possess any power not given by the Constitution.

We assent fully to all that is said in the opinion of the inestimable value of trial by jury and of the other constitutional safeguards of civil liberty; and we concur also in what is said of
the writ of **habeas corpus** and of its suspension, with two reservations: (1) That, in our judgment, when the writ is suspended, the Executive is authorized to arrest as well as to detain; and, (2) that there are cases in which, the privilege of the writ being suspended, trial and punishment by military commission, in States where civil courts are open, may be authorized by Congress, as well as arrest and detention. We think that Congress had power, though not exercised, to authorize the military commission which was held in Indiana.

We do not think it necessary to discuss at large the grounds of our conclusions. We will briefly indicate some of them.

The Constitution itself provides for military government and regulation of the army and naval forces; and we do not understand it to be claimed that the civil safeguards of the Constitution have application in cases within the proper spheres of the former.

What, then, is that proper sphere? Congress has power to raise and support armies; to provide and maintain a navy; to make rules for the government and regulation of the land and naval forces, and to provide for governing such part of the militia as may be in the service of the United States.

It is not denied that the power to make rules for the government of the army and navy is a power to provide for trial and punishment by military courts without a jury. It has been so understood and exercised from the adoption of the Constitution to the present time.

Nor, in our judgment, does the fifth or any other amendment abridge that power. "Cases arising in the land and naval forces, or in the militia in actual service in time of war or public danger," are expressly excepted from the fifth amendment, "that no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury," and it is admitted that the exception applies to the other amendments as well as to the fifth.

Now we understand this exception to have the same import and effect as if the powers of Congress in relation to the government of the army and navy and the militia had been recited in the amendment, and cases in which those powers had been expressly excepted from its operation.

The States, most jealous of encroachments upon the liberties of the citizen when proposing amendments to the Constitution, have guarded against the power of Congress in a manner most effectual. The States, most jealous of encroachments upon the liberties of the citizen when proposing amendments to the Constitution, have guarded against the power of Congress in a manner most effectual. The States, most jealous of encroachments upon the liberties of the citizen when proposing amendments to the Constitution, have guarded against the power of Congress in a manner most effectual. The States, most jealous of encroachments upon the liberties of the citizen when proposing amendments to the Constitution, have guarded against the power of Congress in a manner most effectual. The States, most jealous of encroachments upon the liberties of the citizen when proposing amendments to the Constitution, have guarded against the power of Congress in a manner most effectual. 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The States, most jealous of encroachments upon the liberties of the citizen when proposing amendments to the Constitution, have guarded against the power of Congress in a manner most effectual. The States, most jealous of encroachment
prevail. What we do maintain, is, that when the
nation is involved in war, and some portions of
the country are invaded, and all are exposed to
invasion, it is within the power of Congress to
determine in what States or districts such great
and imminent public danger exists as justifies
the authorization of military tribunals for the
trial of crimes and offences against the discipline
or safety of the army, or against the public
danger.

In Indiana, for example, at the time of the
arrest of Milligan and his co-conspirators, it is
established by the papers in the record, that the
State was a military district, was the theatre of
military operations, had been actually invaded,
and was constantly threatened with invasion. It
appears, also, that a powerful secret association,
composed of citizens and others, existed within
the State, under military organization, conspiring
against the draft, and plotting insurrection, the
liberation of the prisoners of war at various
depots, the seizure of the State and national ar-
tenals, armed co-operation with the enemy, and
war against the National Government.

We cannot doubt that, in such a time of public
danger, Congress had power, under the Consti-
tution, to provide for the organization of a mili-
tary commission, and for trial by that commission
of persons engaged in this conspiracy. The fact
that the Federal courts were open was regarded
by Congress as a sufficient reason for not exer-
cising the power; but that fact could not deprive
Congress of the right to exercise it. Those courts
might be open and undisturbed in the execution
of their functions, and yet wholly incompetent
to avert threatened danger, or to punish, with
adequate promptitude and certainty, the guilty
conspirators.

In Indiana the judges and officers of the courts
were loyal to the Government. But it might
have been otherwise. In times of rebellion and
civil war it may often happen, indeed, that
judges and officers will be in active sympathy
with the rebels, and courts their most efficient
allies.

We have confined ourselves to the question of
power. It was for Congress to determine the
question of expediency. And Congress did de-
termine it. That body did not see fit to authorize
trials by military commission in Indiana, but by
the stronger implication prohibited them. With
that prohibition we are satisfied, and should have
remained silent if the answers to the questions
certified had been put on that ground, without
denial of the existence of a power which we
believe to be constitutional and important to the
public safety—a denial which, as we have already
suggested, seems to draw in question the power of
Congress to protect from prosecution the mem-
bers of military commissions who acted in obedi-
ence to their superior officers, and whose action,
whether warranted by law or not, was approved
by the President, under whose administration the
Republic was rescued from threatened destruction.

We have thus far said little of martial law,
not do we propose to say much. What we have
already said sufficiently indicates our opinion
that there is no law for the government of the
citizens, the arms, or the navy of the United
States, within American jurisdiction, which is
not contained in or derived from the Constitu-
tion. And wherever our army or navy may go,
beyond our territorial limits, neither can go
beyond the authority of the President or the
legislation of Congress.

There are under the Constitution three kinds
of military jurisdiction—one to be exercised both
in peace and war; another to be exercised in
time of foreign war without the boundaries of
the United States, or in time of rebellion and
civil war within States or districts occupied by
rebels treated as belligerents; and a third to be
exercised in time of invasion or insurrection
within the limits of the United States, or during
rebellion within the limits of States maintaining
adhesion to the National Government, when the
public danger requires its exercise. The first
of these may be called jurisdiction under MIL-
TARY LAW, and is found in acts of Congress pre-
scribing rules and articles of war, or otherwise
providing for the government of the national
forces; the second may be distinguished as MIL-
TARY GOVERNMENT, superseding, as far as may
be deemed expedient, the local law, and exercised
by the military commander under the direct
direction of the President, with the express or implied
sanction of Congress; while the third may be
designated MILITARY LAW PROPER, and is called
into action by Congress, or temporarily, when
the action of Congress cannot be invited, and in
the case of justifying or exciting peril, by the
President, in times of insurrection or invasion,
or of civil or foreign war, within districts or
localities where ordinary law no longer adequate-
ly secures public safety and private rights.

We think that the power of Congress, in such
times and in such localities, to authorize trials
for crimes against the security and safety of the
national forces, may be derived from its consti-
tutional authority to raise and support armies
to avert threatened danger, or to punish, with
adequate promptitude and certainty, the guilty
conspirators.

We have no apprehension that this power,
under our American system of government, in
which all official authority is derived from the
people, and exercised under direct responsibility
to the people, is more likely to be abused than
the power to regulate commerce or the power to
borrow money. And we are unwilling to give
our assent by silence to expressions of opinion
which seem to us calculated, though not intended,
to cripple the constitutional powers of the Gov-
ernment, and to augment the public dangers in
times of invasion and rebellion.

Mr Justice Wayne, Mr Justice Swayne, and
Mr Justice Miller concur with me in these views.

On the Missouri Constitutional Test Oath of Loy-
alty, January 16, 1857.

Mr Justice Field delivered the opinion of the
Court in the case of John A. Cummins vs. The
State of Missouri.

This case comes before us on a writ of error
to the supreme court of Missouri, and involves a
consideration of the test oath imposed by the
constitution of that State. The plaintiff in error
is a priest of the Roman Catholic Church, and
was indicted and convicted, in one of the circuit
The oath thus required is directed not merely against overt and visible acts of hostility to the Government, but is intended to reach words, desires, and sympathies also; and, in the third place, it allows no distinction between acts springing from malignant enmity and acts which may have been prompted by charity or affection or relationship. It was observed by the learned counsel who appeared on behalf of the State of Missouri, this Court cannot decide this case upon the justice or hardship of these provisions. Its duty is to determine whether the provisions are in conflict with the Constitution of the United States. On behalf of Missouri, it is urged that these provisions only prescribe a qualification for holding certain offices and practicing certain callings, and are therefore within the power of the State to adopt. On the other hand, it is contended that these provisions are in conflict with that clause of the Constitution which forbids any State to pass a bill of attainder or ex post facto law.

We admit the propositions of the counsel for Missouri, that the States which existed previous to the adoption of the Federal Constitution possessed originally all the attributes of sovereignty; that they still retain those attributes, except as they have been surrendered by the formation of the Constitution and the amendments thereof; that the new States, upon their admission into the Union, became invested with equal rights, and were thereafter subject only to similar restrictions; and that among the rights reserved to the States is the right of each State to determine the qualifications for office, and the conditions upon which its citizens may exercise their various callings and pursuits within its jurisdiction. These are general propositions, and involve principles of the highest moment. But it is by no means follows that under the form of creating a qualification or attaching a condition, the State can in effect make a punishment for a past act which was not punishable at the time it was committed. The question is not as to the existence of the power of the State over matters of internal police, but whether that power has been made in the present case an instrument for the infliction of punishment against the prohibition of the Constitution.

Qualifications relate to the fitness or capacity of the party for a particular pursuit or profession. Webster defines the term to mean "any natural endowment or any acquirement which fits a person for a place, office, or employment," courts of that State, of the crime of teaching and preaching, as a priest and minister of that religious denomination, without having first taken the oath, and was sentenced to pay a fine of $500, and to be committed to jail until the same was paid. On appeal to the supreme court of the State, the judgment was affirmed.

The oath thus required is without any precedent that we can discover for its severity. In the first place, it is retrospective. It embraces all the past from this day, and if taken years hence, it will also cover all the intervening period. In its retrospective feature, it is peculiar to this country. In England and France there have been test oaths, but they have always been limited to an affirmation of present belief or present disposition towards the Government, and were never exacted with reference to particular instances of past misconduct. In the second place, the oath is directed not merely against overt and visible acts of hostility to the Government, but is intended to reach words, desires, and sympathies also; and, in the third place, it allows no distinction between acts springing from malignant enmity and acts which may have been prompted by charity or affection or relationship. If one has ever expressed sympathy with any one who was drawn into the rebellion, even if the recipients of that sympathy were connected by the closest ties of blood, he is as unable to subscribe to the oath as the most active and cruel rebels, and is equally debarred from the offices of honor and trust and the positions and employments specified.

But, as it was observed by the learned counsel who appeared on behalf of the State of Missouri, this Court cannot decide this case upon the justice or hardship of these provisions. Its duty is to determine whether these provisions are in conflict with the Constitution of the United States. On behalf of Missouri, it is urged that these provisions only prescribe a qualification for holding certain offices and practicing certain callings, and are therefore within the power of the State to adopt. On the other hand, it is contended that these provisions are in conflict with that clause of the Constitution which forbids any State to pass a bill of attainder or ex post facto law. We admit the propositions of the counsel for Missouri, that the States which existed previous to the adoption of the Federal Constitution possessed originally all the attributes of sovereignty; that they still retain those attributes, except as they have been surrendered by the formation of the Constitution and the amendments thereof; that the new States, upon their admission into the Union, became invested with equal rights, and were thereafter subject only to similar restrictions; and that among the rights reserved to the States is the right of each State to determine the qualifications for office, and the conditions upon which its citizens may exercise their various callings and pursuits within its jurisdiction. These are general propositions, and involve principles of the highest moment. But it is by no means follows that under the form of creating a qualification or attaching a condition, the State can in effect make a punishment for a past act which was not punishable at the time it was committed. The question is not as to the existence of the power of the State over matters of internal police, but whether that power has been made in the present case an instrument for the infliction of punishment against the prohibition of the Constitution.
enables him to sustain any character with success." It is evident from the nature of the pursuits and professions of the parties placed under disabilities by the constitution of Missouri, that the acts from the taint of which they must purge themselves have no possible relation to their fitness for those pursuits and professions. There can be no connection between the fact that Mr. Cummings entered or left the State of Missouri to avoid enrollment or draft in the military service of the United States, and his fitness to teach the doctrines or administer the sacraments of his church. Nor can a fact of this kind, or the expression of sympathy with persons drawn into the rebellion, constitute any evidence of the unfitness of the attorney or counselor to practice his profession, or of the professor to teach the ordinary branches of education, or of the party to be guardian or executor, to take any legacy or deed of gift, and to possess any election for members of Parliament, and also by forfeiture of £500 to any one who would sue for the same.

"Some punishments," says Blackstone, "consist in exile or banishment, by abjuration of the religious profession and trust, or of the right of voting, of eligibility to office, of taking part in family councils, of being guardian and trustee, of bearing arms, or being employed in a school or seminary of learning."

The deprivation of any rights, civil or political, may be punishment; the circumstances attending the cases of deprivation determining this fact. Disqualification from office may be punishment, as in cases of conviction upon impeachment. Disqualification from the pursuit of a lawful avocation, or from positions of trust, or from the privilege of appearing in the courts, or acting as executor, administrator, or guardian, may also, and often has been, imposed as punishment. By the statute of 9 and 10 William III., if any person educated in or having made a profession of the Christian religion did, by writing, printing, teaching, or advising speaking, deny the truth of the religion or the Divine authority of the Scriptures, he was for the first offence rendered incapable of holding any office or place of trust, and for the second he was rendered incapable of bringing any action, being guardian, executor, legatee, or purchaser of lands, being subjected to imprisonment without bail. By statute 2 George I., contempt against the king's title was punished by incapacity to hold a public office or place of trust, to prosecute any suit, to be guardian or executor, to take any legacy or deed of gift, and to possess any election for members of Parliament, and also by forfeiture of £500 to any one who would sue for the same.

"Some punishments," says Blackstone, "consist in exile or banishment, by abjuration of the religious profession and trust, or of the right of voting, of eligibility to office, of taking part in family councils, of being guardian and trustee, of bearing arms, or being employed in a school or seminary of learning."

The theory upon which the political institutions rest is, that all men have certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; and that in the pursuit of happiness, all avocations, all honors, all highly-paid positions, are alike open to every one, and that in the protection of these rights all are equal before the law. Any deprivation or suspension of any of these rights for past conduct or acts is punishment, and can in no otherwise be defined. Punishment not being therefore restricted, as contended by counsel, to the deprivation of life, liberty, or property, but also embracing deprivation or suspension of political or civil rights, and the disabilities prescribed by the provisions of the Missouri constitution being in effect punishment, we proceed to consider whether there is any inhibition in the Constitution of the United States against their enforcement.

The counsel from Missouri closed his argument in this case by presenting a striking picture of the struggle for ascendancy in that State during the recent rebellion between the friends and the enemies of the Union, and of the fierce passions which that struggle aroused. It was in the midst of the struggle that the present constitution was framed, although it was not adopted by the people until the war had ceased. It would have been strange, therefore, had it not exhibited in its provisions some traces of the excitement amid which the convention held its deliberations. It was against the excited action of the States, under such influences as these, that the framers of the Federal Constitution intended to guard. In Fletcher vs. Peck, Mr. Chief Justice Marshall, speaking of such action, uses this language: "Whatever respect might have been felt for the State sovereignties, it is not to be denied that the framers of the Constitution viewed, with some apprehension, the violent acts which might grow out of the feelings of the moment; and that the people of the United States, in adopting that
Instruments, have manifested a determination to shield themselves and their property from the effects of those sudden and strong passions to which men are exposed. The restrictions on the power of the States are obviously founded in this sentiment; and the Constitution of the United States contains what may be deemed a bill of rights for the people of each State:

"No State shall pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts."

A bill of attainder is a legislative act which inflicts punishment without a judicial trial. If the punishment be less than death the act is termed a bill of pains and penalties. Within the meaning of the Constitution bills of attainder include bills of pains and penalties. In these cases the legislative body, in addition to its legitimate functions, exercises the powers and offices of judges. As stated in the text books, judicial magistracy. It pronounces upon the guilt of the parties without any of the forms or safeguards of trial. It determines the sufficiency of the proofs produced, whether conformable to the rules of evidence or otherwise. It fixes the degree of punishment in accordance with its own notion of the enormity of the offense. "This is the act," says Mr. Justice Story, "have been usually passed in England in times of rebellion, or gross subversive to the crown, or of violent political excitement—periods in which all nations are most liable, as well as the free as the enslaved, to forget their duties and trample upon the rights and liberties of others."

These bills are generally directed against individuals by name, but they may be directed against a whole class. The bill against the Earl of Kildare, passed in the reign of Henry VII, enacted that all such persons who be or heretofore have been comforters, abettors, partakers, confederates or adherents of the said Earl in his or their false and traitorous acts and purposes shall in like wise stand, be attainted, adjudged guilty, and be deprived of the like deprivation, provided they did not by the easelaw, to forget their duties and trample upon the rights and liberties of others."

These bills may inflict punishment absolutely or may inflict it conditionally. The bill against the Earl of Clarendon, passed in the reign of Charles II, enacted that the Earl should suffer perpetual exile and be forever banished from the realm, and if that he returned or was found in England, or in any other of the king's dominions after the 1st of February, 1667, he should suffer the pains and penalties of treason, with a proviso, however, that if he surrendered himself before the said first day of February for trial, the penalties and disabilities declared should be void and of no effect.

"A British act of Parliament," to cite the language of the supreme court of Kentucky, "might declare that if certain individuals failed to do a given act by a named day they should be deemed to be and treated as convicted felons and traitors, and the act would come precisely within the definition of a bill of attainder, and the English courts would enforce it without infliction or trial by jury."

If the clauses of the third article of the constitution of Missouri, to which we have referred, had in terms declared that Mr. Cummings was guilty, or should be held guilty, of having been in armed hostility to the United States, or of having entered that State to avoid being enrolled or drafted into the military service, and thereafter should be deprived of the right to speak as a priest of the Catholic Church or to teach in any institution of learning, there would be no question but that the clauses should constitute a bill of attainder within the meaning of the Federal Constitution.

If these clauses, instead of mentioning his name, had declared that priests and clergymen within the State of Missouri were guilty of these acts, or should be held guilty of them, and hence should be subjected to the like deprivation, the clauses would be equally open to objection. And further, if these clauses had declared that all such priests and clergymen should be held guilty, and by thus deprived, provided they did not by a day designated do certain specified acts, they would be no less within the inhibition of the Federal Constitution.

In all these cases there would be the legislative enactment creating the deprivation, without any of the ordinary forms and safeguards provided for the security of the citizen in the administration of justice by the established tribunals.

The results which would follow from clauses of the character mentioned do follow from the clauses actually adopted. The difference between the last case supposed and the case actually presented is one of form only, and not of substance. The existing clauses presume the guilt of the priests and clergymen, and adjudge the deprivation of their right to preach or teach unless the presumption be first removed by their expurgatory oath. In other words, they assume the guilt and adjudge the punishment before it is shown. The clauses supposed differ only in that they declare the guilt, instead of assuming it. The deprivation is effected with equal certainty in the latter case as in the former, but not with equal directness. The purpose of the law-maker in the case supposed would be openly avowed; in the case existing it is only disguised. The legal result must be the same, for what cannot be done directly cannot be done indirectly. The Constitution deals with substance, not shadow. Its inhibition was leveled at the thing, not the name. It intended that the rights of the citizen should be secured against deprivation for past conduct by legislative enactment, however disguised. If the inhibition can be avoided by the form of the enactment, its insertion in the fundamental law was a vain and futile proceeding.

We proceed to consider the second clause of which Mr. Chief Justice Marshall terms a bill of rights for the people of each State," the clause which inhibits the passage of an ex post facto law. By an ex post facto law is meant one which imposes a punishment for an act which was not punishable at the time it was committed, or imposes additional punishment to that then prescribed, or changes the rules of evidence, by which less or different testimony is required to convict than was then exacted. In Fletcher v.
When Peck, Mr. Chief Justice Marshall defined an *ex post facto* law to be "one which makes an act punishable in a manner in which it was not punishable when it was committed," "such a law," said that eminent judge, "may inflict penalties on the person, or may inflict pecuniary penalties which swell the public treasury. The legislature, is, then, prohibited from passing a law by which a man's estate, or any part of it, shall be seized for a crime which was not declared by some previous law to render him liable to that punishment. Why, then, should violence be done to the natural meaning of the words for the purpose of leaving to the legislature the power of seizing for public use the estate of an individual in the form of a law annulling the title by which he holds the estate? The court can perceive no sufficient grounds for making this distinction. The rescinding act would have the effect of an *ex post facto* law. It forfeits the estate of Fletcher for a crime not committed by himself, but by those from whom he purchased. This could not be effected in the form of an *ex post facto* law or bill of attainder. Why, then, is it allowable in the form of a law annulling the original grant?

The act to which reference is here made was one passed by the State of Georgia repealing a previous act under which land had been granted. The repealing act, as to the grantees, did not in terms define any crime or offend any omission or direct any judicial proceedings; yet, inasmuch as the legislature was forbidden from passing any law by which a man's estate could be confiscated or crime which was not declared by some previous law to render him liable to that punishment, the chief justice was of opinion that the repealing act had the effect of an *ex post facto* law, and was within the constitutional inhibition.

Now, the clauses in the Missouri constitution which are the subject of consideration do not in terms define any crime or declare that any punishment shall be inflicted, but they produce the same result upon the parties against whom they are directed as though the crimes were defined and the punishment declared. They assume that there are persons in Missouri who are guilty of some of the acts designated. They would have no meaning in the constitution were not such the fact. They are aimed at past acts, and not future facts. They were intended to operate upon parties who, in some form or manner, by action or words, directly or indirectly, had aided or countenanced the rebellion, or sympathized with parties engaged in the rebellion, or had endeavored to escape the proper responsibilities and duties of a citizen in time of war. And they were intended to operate by depriving such persons of the right to hold certain offices and trusts, and to pursue their ordinary and regular avocations. This deprivation is punishment; nor is it any less so because a way is opened for escape from it by the expurgatory oath. The framers of the constitution of Missouri knew at the time that whole classes of individuals would be unable to take the oath prescribed. To them there is no escape provided. To them the deprivation was intended to be and is absolute and perpetual. To make the enjoyment of a right dependent upon an impossible condition is equivalent to an absolute denial of the right under any condition, and such denial enforced for a post act is nothing else than punishment imposed for that act; it is a misapplication of terms to call it anything else.

Now, some of the acts to which the expurgatory oath is directed were not offenses at the time they were committed. It was no offense against any law to enter or leave the State of Missouri for the purpose of avoiding enrollment or draft in the military service, however much the evasion of such service might be the subject of moral censure. Clauses which prescribe a penalty for an act of this nature are within the terms of the definition of an *ex post facto* law. They impose a punishment for an act not punishable at the time it was committed. Some of the acts at which the oath is directed constituted high offenses at the time they were committed, to which, upon conviction, fine and imprisonment or other heavy penalties were attached. The clauses which provide a further penalty for these acts are also within the definition of an *ex post facto* law. They impose additional punishment to that prescribed when the act was committed. And this is not all. The clauses in question subvert the presumptions of innocence and alter the rules of evidence which, in the absence of the universally recognized principles of the common law, have been supposed to be fundamental and unchangeable. They assume that the parties are guilty; they call upon the parties to show their innocence, and they declare that such innocence must be shown only in one way, by an inquisition in the form of an expurgatory oath into the consciences of the parties.

The objectionable character of these clauses will be more apparent if we put them in the form of a legislative act. Thus, if instead of the general provisions in the constitution, the convention had provided as follows: "Be it enacted, that all persons who have been in armed hostility to the United States shall, upon conviction thereof, not only be punished as the laws provided at the time the offenses were committed, but shall also be thereafter rendered incapable of holding any of the offices, trusts, and positions, and of exercising any of the pursuits mentioned in the third article of the constitution of Missouri," no one could have any doubt of the nature of the act. It would be an *ex post facto* law, and void, for it would add a new punishment to an old offense. So, too, if the convention had passed an enactment of a similar kind with reference to those acts which do not constitute offenses. Thus, had it provided as follows: "Be it enacted, that all persons who have hereunto at any time entered or left the State of Missouri with intent to avoid enrollment or draft in the military service of the United States, shall, upon conviction thereof, be forever rendered incapable of holding any office of honor, trust, or profit in the United States, or of teaching in any seminary of learning, or of preaching as a minister of the Gospel of any denomination, or exercising any of the professions or pursuits mentioned in the third article of the constitution," there would be no question of the character of the enactment. It would be an *ex post facto* law.
facto law, because it would impose a punishment for an act not punishable at the time it was committed.

The provisions of the constitution of Missouri accomplish precisely what enactments like those supposed would accomplish. They impose the same penalty without the formality of a judicial trial and conviction, for the parties embraced by the supposed enactments would be incapable of taking the oath prescribed. To them, its requirements would be an impossible condition. Now, as the State, had she attempted the course supposed, would have failed, it must follow that any other mode producing the same result must equally fail. The provisions of the Federal Constitution intended to secure the liberty of the citizen cannot be evaded by the forms in which the power of the State is exerted. If this be not so, if that which cannot be accomplished by means looking directly to the end can be accomplished by indirect means, the inhibition may be evaded at pleasure. No kind of oppression can be named against which the framers of the Constitution supposed they had guarded, which may not be effected. Take the case supposed by counsel, that a person tried for treason, acquitted or pardoned, or, if convicted, taking the oath prescribed. To them its requirement of the oath such a violation of the fundamental principles of civil liberty and the rights of the citizen, that it engaged the attention of eminent lawyers and distinguished statesmen of all the constitutional guaranties secured by the Revolution of the rights and liberties of the people. If we examine it, the measure requiring the oath, said this great lawyer, "with an unprejudiced eye, we must acknowledge not only that it was an evasion of the treaty, but a subversion of one great principle of social security, to wit, that every man shall be presumed innocent until he is proved guilty. This was to invert the order of things, and instead of obliging the State to prove the guilt in order to inflict the penalty, it was to oblige the citizen to show his own innocence to avoid the penalty. It was to excite scruples in the honest and conscientious, and to hold out a bribe to perjury." It was a mode of inquiring who had committed any of those crimes to which the penalty of disqualification was annexed, with this aggravation, that it deprived the citizen of the benefit of that advantage which he would have enjoyed by leaving, as in all other cases, the burden of proof upon the prosecution. To place this matter in a still clearer light, let it be supposed that instead of the mode of indictment and trial by jury, the Legislature was to declare that every citizen who did not swear that he had never advised or supported the imposition of the present State to prove the guilt in order to inflict the penalty, it was to oblige the citizen to show his own innocence to avoid the penalty. It was to excite scruples in the honest and conscientious, and to hold out a bribe to perjury." It was a mode of inquiring who had committed any of those crimes to which the penalty of disqualification was annexed, with this aggravation, that it deprived the citizen of the benefit of that advantage which he would have enjoyed by leaving, as in all other cases, the burden of proof upon the prosecution. To place this matter in a still clearer light, let it be supposed that instead of the mode of indictment and trial by jury, the Legislature was to declare that every citizen who did not swear that he had never advised or supported the imposition of the present State to prove the guilt in order to inflict the penalty, it was to oblige the citizen to show his own innocence to avoid the penalty. It was to excite scruples in the honest and conscientious, and to hold out a bribe to perjury.

Let us not forget that the constitution declares that the oath, by jury in all cases in which it has been formerly used should remain inviolate forever, and that the legislature should at no time erect any new jurisdiction which should not proceed according to the course of the common law. Nothing can be more repugnant to the true genius of the common law than such an inquisition as has been mentioned into the consciences of men. If any oath with respect to past conduct had been made the condition on which individuals who have resided within the British lines should hold their estates, we should immediately see that this proceeding would be tyrannical and a violation of the treaty; and yet, when the same oath is employed to divert that right which ought to be deemed still more sacred, many of us are so infatuated as to overlook the mischief.

To say that the persons who will be affected by it have previously forfeited their right, and that therefore nothing is taken away from them is a begging of the question. How do we know who are the parties in this situation? If it be answered this is the mode taken to ascertain it, the objection returns, it is an improper mode,
because it puts the most essential interests of the citizen upon a worse footing than we should be willing to tolerate where inferior interests are concerned, and because, if allowed, it substitutes for the established and legal mode of investigating crimes and inflicting forfeitures one that is unknown to the constitution and repugnant to the genius of our law. 

Similar views have frequently been expressed by the judiciary in cases involving analogous questions. They are presented with great force in the case of Jones (7 Porter,) but we do not deem it necessary to pursue the subject further.

The judgment of the supreme court of Missouri must be reversed and the cause remanded, with directions to enter a judgment reversing the judgment of the circuit court, and directing that court to discharge the defendant from imprisonment and suffer him to depart without day, and it is so ordered.

On the Test Oath of Lawyers, Jan. 14, 1867.

Mr. Justice Field delivered the opinion of the Court:

I am also instructed by the Court to deliver its opinion in the matter of the petition of A. H. Garland.

On the 2d of July, 1862, Congress passed an act prescribing an oath to be taken by every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, except the President of the United States, before entering upon the duties of his office, and before being entitled to its salary or other emoluments. On the 24th of January, 1865, Congress passed a supplementary act, extending its provisions so as to embrace attorneys and counselors of the courts of the United States, which provides that after its passage no person shall be admitted as an attorney or counselor to the bar of the Supreme Court, and, after the 4th of March, 1865, to the bar of any circuit or district court of the United States, or of the Court of Claims, or be allowed to appear and be heard by virtue of any previous admission or any special power of attorney; unless he shall have first taken and subscribed the oath prescribed in the act of July 2, 1862. The act also provides that the oath shall be preserved among the files of the court; and if any person take it falsely, he shall be guilty of perjury, and, upon conviction, shall be subject to the pains and penalties of that offence.

At the December term of 1860, the petitioner was admitted as an attorney and counselor of this Court, and took and subscribed the oath then required. By the second rule, as it then existed, it was only requisite to the admission of attorneys and counselors of this Court that they should have been such officers for the three previous years in the highest courts of the States to which they respectively belonged, and that their private and professional character should appear to be fair. In March, 1865, this rule was changed by the addition of a clause requiring the administration of an oath, in conformity with the act of Congress.

In May, 1863, the State of Arkansas, of which the petitioner was a citizen, passed an ordinance of secession which purported to withdraw the State from the Union, and afterwards, in the same year, by another ordinance, attached herself to the so-called Confederate States, and by act of the Congress of that Confederacy she was received as one of its members. The petitioner followed the State and was one of her representatives, first in the lower House, and afterwards in the Senate, of the Congress of that Confederacy, and was a member of the Senate at the time of the surrender of the Confederate forces to the armies of the United States.

In July, 1865, he received from the President of the United States a full pardon for all offences committed by him by participation, direct or implied, in the rebellion. He now prays the discharge of this, the only pardon, and asks permission to continue to practice as an attorney and counselor of this Court, without taking the oath required by the act of January 24, 1865, and the rule of this Court, which he is unable to take by reason of the office he held under the Confederate government.

He rests his application principally upon two grounds: First, that the act of January 24, 1865, so far as it affects his status in the courts, is unconstitutional and void; second, that if the act be unconstitutional, he is released from compliance with its provisions by the pardon of the President. The oath prescribed by the act is as follows: 1. That the deponent has never voluntarily borne arms against the United States since he has been a citizen thereof. 2. That he has not voluntarily given aid, counsel, or encouragement to persons engaged in armed hostility thereto. 3. That he has never sought, accepted, or attempted to exercise the functions of any office whatsoever under any authority or pretended authority in hostility to the United States. 4. That he has not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. 5. That he will support and defend the Constitution of the United States against all enemies, foreign and domestic, and will bear true faith and allegiance to the same.

This last clause is promissory only, and requires no consideration. The questions presented for our determination arise from the other

They shall respectively take and subscribe the following oath or affirmation:

I, ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatsoever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. And I do further swear, (or affirm,) that, to the best of my knowledge and belief, I will support and defend the Constitution of the United States against all enemies, foreign and domestic, and will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion.

And I do further solemnly swear, (or affirm, as the case may be,) that I will demean myself as an attorney and counselor of this Court uprightly and according to law: So help me God.
The profession of an attorney and counselor is not like an office created by an act of Congress, which depends for its continuance, its powers, and its emoluments on the will of its creator, and the possession of which may be burdened with any conditions not prohibited by the Constitution. Attorneys and counselors are not officers of the United States. They are not elected or appointed in the manner prescribed by the Constitution for the election or appointment of such officers. They are officers of the court, admitted as such by its order upon evidence of their possessing sufficient legal learning and fair character. Since the statute of Henry IV, it has been the practice in England, and it has always been the practice in this country, to obtain this evidence by an examination of the parties. In this Court the fact of the admission of such officers in the highest court of the States to which they respectively belong for three years preceding their admission is regarded as sufficient evidence of the possession of the requisite legal learning, and the statement of counsel moving their admission sufficient evidence that their private and professional character is fair. The order of admission is the judgment of the court that the parties possess the requisite qualifications as attorneys and counselors, and are entitled to appear as such and conduct causes therein. From its entry the parties become officers of the court, and are responsible to it for professional misconduct.

They hold their office during good behavior, and can only be deprived of it for misconduct, ascertained and declared by the judgment of the court, after opportunity to be heard has been afforded. Their admission and their exclusion are not the exercise of a mere ministerial power. The court is not in this respect the register of the edicts of any other body. It is the exercise of judicial powers, and has been so held in numerous cases. It was so held by the court of appeals of New York in the matter of the application of Cooper for admission. "Attorneys and counselors," said that court, "are not only officers of the court, but officers whose duties relate almost exclusively to proceedings of a judicial nature, and hence their appointment may, with propriety, be entrusted to the courts; and the latter, in performing this duty, may very justly be considered as engaged in the exercise of their appropriate judicial functions." In ex parte Seibomb, a mandamus to the supreme court of the Territory of Minnesota to vacate an order removing an attorney and counselor was denied by this court on the ground that the removal was a judicial act.

"We are not aware of any case," said the court, "where a mandamus was issued to an inferior tribunal commanding it to reverse or annul its decision, where the decision was in its nature a judicial act, and with the scope of its jurisdiction and discretion." And in the same case the court observed that "it has been well settled by the rules and practice of common-law courts that it rests exclusively with the court to determine who is qualified to become one of its officers as an attorney and counselor, and for what causes he ought to be removed." The attorney and counselor, being by the solemn judi-
suitors, and to argue causes, is something more than a mere indulgence, revoluble at the pleasure of the court or at the command of the legislatures; it is a right of which he can only be deprived by the judgment of the court for moral or professional delinquency. The legislature may undoubtedly prescribe qualifications for the office, with which he must conform, as it may, where it has exclusive jurisdiction, prescribe qualifications for the pursuit of any of the ordinary avocations of life; but to constitute a qualification, the condition or thing prescribed must be attainable, in theory at least, by every one. That which from the nature of things, or the past condition or conduct of the party, cannot be attained by every citizen, does not fall within the definition of the term. To all those by whom it is unattainable it is a disqualification which operates as a perpetual bar to the office. The question in this case is not as to the power of Congress to prescribe qualifications, but whether that power has been exercised as a means for the infliction of punishment against the prohibition of the Constitution. That this result cannot be effected indirectly by a State under the form of creating qualifications, we have held in the case of Cummings vs. The State of Missouri, and the reasoning upon which that conclusion was reached applies equally to similar actions on the part of Congress.

These views are further strengthened by a consideration of the effect of the pardon produced by the petitioner and the nature of the pardon power of the President. The Constitution provides that the President "shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment." The power thus conferred is unlimited, with the exception stated; it extends to every offence known to the law, and may be exercised at any time after its commission, either before legal proceedings are taken, or during their pendency, or after conviction and judgment. This power of the President is not subject to legislative control. Congress can neither limit the effect of his pardon, nor exclude from its exercise any class of offenders. The benign prerogative of mercy reposed in him cannot be fettered by any legislative restriction. Such being the case, the inquiry arises as to the effect and operation of a pardon. On this point all the authorities concur: a pardon reaches both the punishment prescribed for the offense, and the guilt of the offender, and when the pardon is full it releases the punishment and blot out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offense. If granted before conviction, it prevents any of the penalties and disabilities consequent upon conviction, from attaching. If granted after conviction it removes the penalties and disabilities, and restores him to all his civil rights. It makes him, as it were, a new man, and gives him a new credit and capacity. There is only this limitation to its operation; it does not restore offices forfeited, or property or interests vested in others in consequence of the conviction and judgment. The pardon produced by the petitioner is a full pardon for all offenses by him committed arising from participation direct or implied in the rebellion, and is subject to certain conditions which have been complied with. The effect of this pardon is to relieve the petitioner from all penalties and disabilities attached to the offense of treason committed by his participation in the rebellion. So far as that offense is concerned he is thus placed beyond the reach of punishment of any kind; but to exclude him by reason of that offense from continuing in the enjoyment of previously acquired right is to enforce a punishment for that offense notwithstanding the pardon. If such exclusion can be effected by the execution of an expurgatory oath covering the offense, the pardon may be avoided, and that accomplished indirectly which cannot be reached by direct legislation. It is not within the constitutional power of Congress thus to inflict punishment beyond the reach of executive clemency.

From the petitioner, therefore, the oath required by the act of January 24, 1865, cannot be exacted, even were that act not subject to any other objection than the one just stated. It follows, from the views expressed, that the prayer of the petitioner must be granted.

The case of R. H. Marr is similar in its main features to that of the petitioner, and his petition must be granted; and the amendment to the second rule of the court, which requires the oath prescribed by the act of January 24, 1865, to be taken by attorneys and counselors, having been unadvisedly adopted, must be rescinded, and it is so ordered.*

*The new order, made by a majority, is as follows:

SUPREME COURT OF THE UNITED STATES.

Order of Court, December Term, 1866—Monday, January 14, 1867.

It is now here ordered by the Court that the amendment to the second rule of this Court, which requires the oath prescribed by the act of Congress of January 24, 1865, to be taken by attorneys and counselors, be, and the same is hereby rescinded and annulled.
legislative body of a State has assumed an authority not belonging to it, and, by violating the Constitution, has renounced its attempt at legislation. In the case of an act of Congress, which expresses the sense of the members of a co-ordinate department of the Government, as much as it is ours, to be careful that no statute is passed in violation of it, the incompatibility of the act with the Constitution should be so clear as to leave little reason for doubt before we pronounce it to be invalid. Unable to see this incompatibility either in the act of Congress or in the provision of the constitution of Missouri upon which the Court has just passed, but entertaining a strong conviction that both were within the competency of the bodies which enacted them, it seems to me an occasion which demands that my dissent from the judgment of the Court and the reasons for that dissent should be placed on its records.

In the comments which I have to make on these cases, I shall speak of principles equally applicable to both, although I shall refer more directly to that which involves the oath required of attorneys by the act of Congress, reserving to the close some remarks more especially applicable to the oath prescribed by the constitution of the State of Missouri.

The Constitution of the United States makes ample provision for the establishment of courts of justice, to administer its laws and protect and enforce the rights of its citizens. Article 3, section 1, of that instrument says that “the judicial power of the United States shall be vested in one supreme court and such inferior courts as Congress may from time to time ordain and establish.” Section 8 of article 1, closes its enumeration of the powers conferred on Congress by the broad declaration that it shall have authority “to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department thereof.” Under these provisions, Congress has ordained and established circuit courts, district courts, and Territorial courts, and has, by various statutes, fixed the number of the judges of the Supreme Court; it has limited and defined the jurisdiction of all these and determined the salaries of the judges who hold them. It has provided for their necessary officers, as marshals, clerks, prosecuting attorneys, bailiffs, commissioners, and jurors; and by the act of 1789, commonly called the judiciary act, passed by the first Congress assembled under the Constitution, it is, among other things, enacted “that in all the courts of the United States parties may plead and manage their causes personally, or by the assistance of such counsel or attorneys at law as by the rules of the said courts respectively shall be permitted to manage and conduct causes therein.” It is believed that no civilized nation of modern times has been without a class of men intimately connected with the courts and with the administration of justice, called variously attorneys, counselors, solicitors, proctors, or other terms of similar import. The enactment which we have just cited recognizes this body of men and their utility in the judicial system of the United States, and imposes upon the courts the duty of providing rules by which persons entitled to become members of this class may be permitted to exercise the privilege of managing and conducting causes in those courts. They are as essential to the successful working of the courts as clerks, sheriffs, and marshals, and, perhaps, as the judges themselves, since no instance is known of a court of law without a bar. The right to practice law in the courts as a profession is a privilege granted by the law under such limitations or conditions in each State or government as the law-making power may prescribe. It is a privilege, and not an absolute right.

The distinction may be illustrated by the difference between the right of a party to a suit in court to defend his own cause, and the right of another party to appear and defend for him. The one, like the right to life, liberty, and the pursuit of happiness, is inalienable; the other is the privilege conferred by law on a person who complies with the prescribed conditions. Every State in the Union, and every civilized government, has laws by which the right to practice in its courts may be granted, and makes that right to depend upon the good moral character and professional skill of the party upon whom the privilege is conferred. This is not only true in reference to the first grant of license to practice law, but the continuance of the right is made by these laws to depend upon the continued possession of these qualities. Attorneys are often deprived of this right upon evidence of bad moral character, or specific acts of immorality or dishonesty, which show that they no longer possess the requisite qualifications. All this is done by law, either statutory or common, and, whether the one or the other, equally the expression of the legislative will, for the common law exists in this country only as it is adopted or permitted by legislatures or by constitutions.

No reason is perceived why this body of men, in their important relations to the courts of the nation, are not subject to the action of Congress to the same extent that they are under the legislative control in the States, or in any other Government, and to the same extent that the judges, clerks, marshals, and other officers of the court are subject to congressional legislation. Having the power to establish the courts, to provide for and regulate the practice in those courts, to create their officers, and to prescribe their functions, can it be doubted that Congress has the full right to prescribe terms for the admission, rejection, and expulsion of attorneys, and for requiring of them an oath to show whether they have the proper qualifications for the discharge of their duties.

The act which has just been declared to be unconstitutional is nothing more than a statute which requires of all lawyers who propose to practice in the national courts that they shall take the same oath which is required of every officer of the Government, civil or military. This oath has two aspects—one which looks to the past conduct of the party, and one to his future conduct—but both have reference to his disposition to support or to overturn the Government in
whose functions he proposes to take a part. In substance, he is required to swear that he has not been guilty of treason to that Government in the past, and that he will bear faithful allegiance to it in the future. That fidelity to the Government under which he lives, and true and loyal attachment to it, and a sincere desire for its preservation, are among the most essential qualifications which should be required in a lawyer, seems to me too clear for doubt. The history of the Anglo-Saxon race shows that for ages past the members of the legal profession have been powerfully calculated to secure that result. The majority of the Court, however, do not base their decision on the mere absence of authority in Congress and the States to enact the laws which are the subject of consideration, but insist that the Constitution of the United States forbids the passage of such laws, both to Congress and to the States. The provisions of that instrument relied on to sustain this doctrine are those which forbid Congress and the States respectively from passing bills of attainder and ex post facto laws. It is said that the act of Congress and the provision of the constitution of the State of Missouri under question are in conflict with both these provisions, and are therefore void.

I will examine this proposition in reference to these two clauses of the Constitution in the order in which they appear in that instrument. First, in regard to bills of attainder. I am not aware of any judicial decision by a court of Federal jurisdiction which undertakes to give a definition of that term. We are therefore compelled to recur to the bills of attainder passed by the English Parliament, that we may learn so much of their peculiar characteristics as will enable us to arrive at a sound conclusion as to what was intended to be prohibited by the Constitution. The word “attainder” is derived by Sir Thomas Tomlyn in his law dictionary from the words attinere and cinctura, and is defined to be the state or corruption of the blood of a criminal capitally condemned, the immediate, inseparable consequence, by the common law, of the pronouncing of the sentence of death, and the effect of this corruption of the blood was that the party attainted lost all inheritable quality, and could neither receive nor transmit any property or other rights by inheritance. This attainder of corruption of blood, as a consequence of judicial sentence of death, continued to be the law of England in all cases of treason to the time when our Constitution was framed, and, for that reason, is the law of that country on condemnation for treason at this day. Bills of attainder, therefore, or acts of attainder, as they were called after they were passed into the statutes, were laws which declared certain persons attainted and their blood corrupted, so that it had lost all inheritable quality. Whether it declared other punishments or not, it was an act of attainder if it declared the corruption of blood, as a consequence of the act of treason, to which the party was attainted.

This, however, while it was the chief, was not the only peculiarity of bills of attainder which was intended to be included within the constitutional restriction. Upon an attentive examination of the distinctive features of this kind of legislation, I think it will be found that the following comprise the essential elements of bills of attainder, in addition to the one already mentioned, which distinguished them from other legislation, and which made them so obnoxious to the statesmen who organized our Government: First, they were convictions and sentences pronounced by the legislative department of the Government instead of the judiciary; second, the sentences pronounced and the punishments inflicted were determined by no previous law or fixed rule; third, the investigation into the guilt of the accused, if any such were made, was not necessarily or generally conducted in his presence or that of his counsel, and no recognized rule of evidence governed the inquiry. (See Story on the Constitution, section 1,944.)

It is no cause for wonder that the men who had just passed successfully through a desperate struggle in behalf of civil liberty should feel a detestation for legislation of which these were the prominent features. The framers of our political system had a full appreciation of the necessity of keeping separate and distinct the primary departments of the Government. Mr. Hamilton, in the seventy-eighth number of the Federalist, says that he agrees with the maxim of Montesquieu, that there is no liberty if the power of judging be not separated from the legislative and executive powers; and others of the ablest members of that publication are devoted to the purpose of showing that in our Constitution these powers are so justly balanced and restrained that neither will probably be able to make much encroachment upon the other. It was its less repugnant to their views of the security of personal rights that any person should be condemned without a hearing and punished with-
out a law previously prescribing the nature and extent of that punishment. They therefore struck boldly at all this machinery of legislative despotism, by forbidding the passage of bills of attainder and ex post facto laws, both to Congress and to the States.

It remains to inquire whether in the act of Congress under consideration—and the remarks apply with equal force to the Missouri constitution—that particular act brings anything within the reach of that clause of bills. It is not claimed that the law would be a violation of the Constitution. Absent stain of the Earl of Kildare and his associates is re-confirmed at once that the act does not contain this leading feature of bills of attainder. Nor am I capable of seeing that it contains a provision or sentence of any designated person or persons. It is said that it is not necessary to a bill of attainder that the party to be affected should be named in the act, and the attainder of the Earl of Kildare and his associates is referred to as showing that the act was aimed at a class. It is very true that bills of attainder have been passed against persons by description when their names were unknown, but in such cases the law leaves nothing to be done to render its operation effectual but to identify those persons. Their guilt, its nature, and its punishment are fixed by the statute, and only that person remains to be made out. Such was the case alluded to. The act declared the guilt and punishment of the Earl of Kildare and all those who were associated with him in his enterprises, and all that was required to insures their punishment was to prove that association. If this were not so, then it was mere brutum fulmen, and the parties other than the Earl of Kildare could not be punished, notwithstanding the statute, by proof of their guilt before some competent tribunal.

No person is pointed out in the act of Congress, either by name or by description, against whom it is to operate. The oath is only required of those who propose to accept an office or to practice law, and as a prerequisite to the exercise of the functions of the lawyer or the officer it is demanded of all persons alike. It is said to be a class, to those alone who were engaged in the rebellion; but this is manifestly incorrect, as the oath is exacted alike from the loyal and disloyal under the like circumstances, and none are compelled to take it. Neither does the act declare any conviction of any designated person or persons. If so, who are they, and of what crime are they declared to be guilty? Nor does it pronounce any sentence or inflict any punishment. If by any possibility it can be said to provide for conviction and sentence, though not found in the act itself, it leaves the party himself to determine his own guilt or innocence, and pronounce his own sentence. It is not, then, the act of Congress, but the party interested, that tries and condemns. We shall see, when we come to the discussion of this act in its relation to ex post facto laws, that it inflicts no punishment.

A statute which designates no criminal, either by name or by description, which declares no guilt, pronounces no sentence, and inflicts no punishment, can in no case be called a bill of attainder.

Passing now to the consideration, whether this statute is an ex post facto law, we find that the meaning of that term, as used in the Constitution, is a matter which has been frequently before this Court, and it has been so well defined as to leave no room for controversy. The only doubt which can arise is as to the character of the particular acts claimed to come within the definition, as to the definition of the phrase itself. All the cases agree that the term is applied to criminal causes alone, and not to civil proceedings. In the language of Justice Story in the case of Watson vs. Mercer, 8 Peters, 88, "ex post facto laws relate to penal and criminal proceedings which impose punishments and forfeitures, and not to civil proceedings, which affect private rights retrospectively." (Calder vs. Bull, 3 Dallas, 386; Fletcher vs. Peck, 9 Cranch, 57; Ogden vs. Saunders, 12 Wheaton, 266; Satterlee vs. Mathewson, 2 Peters, 380.)

The first case on the subject is that of Calder vs. Bull, and it is the case in which the doctrine concerning ex post facto law is most fully expounded. The Court divides all laws which come within the meaning of that clause of the Constitution into four classes: 1. Every law that makes an action done before the passing of the law, and which was innocent when done, criminal, and punishes such action. 2. Every law that aggravates a crime, or makes it greater than it was when committed. 3. Every law that changes the punishment, and inflicts a greater punishment than the law annexed to the crime when committed. 4. Every law that alters the rule of evidence, and receives less or different testimony than the law required at the time of the commission of the offense to convict the offender.

Again, the Court draws, in the same opinion, the true distinction as between ex post facto laws and retrospective laws, and proceeds to show that however unjust the latter may be, they are not prohibited by the Constitution, while the former are. This exposition of the nature of an ex post facto law has never been denied, nor has any court or any commentator on the Constitution added to the classes of laws here set forth as coming within that clause of organic law. In looking carefully at these four classes of laws, two things strike the mind as common to all:

1. That they contemplate the trial of some person charged with an offense; second, that they contemplate a punishment of a person found guilty of such offense.

Now, it seems to me impossible to show that the law in question contemplates either the trial of a person for an offense committed before its passage, or the punishment of any person for such an offense. It is true the act requiring an oath provides a penalty for falsely taking it; but this provision is prospective, as no one is supposed to take the oath until after the passage of the law. This prospective penalty is the only thing in the law which partakes of a criminal character. It is in all other respects a civil proceeding. It is simply an oath of office, and it is required of all office-holders alike. As far as I am informed, this is the first time in the history of jurisprudence that taking an oath of office has been called a criminal proceeding. If it is not a criminal proceeding, then, by all the
authorizes, it is not an ex post facto law. No trial of any person is contemplated by the act for any past offence; nor is any party supposed to be charged with any offence in the only proceeding which the law provides. A person professing to appear in the court as an attorney is asked to take a certain oath. There is no charge made against him that he has been guilty of any of the crimes mentioned in that oath; there is no prosecution. There is not even an implication of guilt by reason of tendering him the oath; for it is required of the man who has lost everything in defence of the Government, and whose loyalty is written in the honorable scars which cover his body, the same as of the guiltiest traitor in the land. His refusal to take the oath subjects him to no prosecution; his taking it clears him of no guilt and excuses him of no charge.

Where, then, is this ex post facto law which tries and punishes a man for a crime committed before it was passed? It can only be found in those elastic rules of construction which cramp the powers of the Federal Government when they are to be exercised in certain directions, and enlarge them when they are to be exercised in others. No more striking example of this could be given than the cases before us, in one of which the Constitution of the United States is held to confer power on Congress to prevent traitors from practicing in our courts, while in the other it is held to confer power on this Court to nullify a provision of the constitution of the State of Missouri relating to a qualification required of ministers of religion.

But the fatal vice in the reasoning of the majority is in the meaning which they attach to the word "punishment," in its application to this law, and in its relation to the definitions which have been given of the phrase ex post facto law. Webster's second definition of the word "punish" is this: "In a loose sense, to affect with pain; &c., with" harmless shall be found all at once to be dangerous to the lives of persons with whom they associate. The State, therefore, passes a law that all persons so affected shall be kept in close confinement until their society is approved. Here is a case of punishment, in the sense used by the Court, for a matter existing before the passage of the law. Is it an ex post facto law; and if but, in what does it differ from one? Just in the same manner that the act of Congress does—namely, that the proceeding is a civil, and not a criminal proceeding, and that the imprisonment in the one case, and the prohibition to practice law in the other, are not punishments in the legal meaning of that term.

The civil law maxim, nemo debet bis vexari pro una et eadem causae, has long since been adopted in the common law as applicable both to civil and criminal proceedings; and one of the amendments of the Constitution incorporates this principle into that instrument so far as punishment affects life or limb.

It results from this rule that no man can be twice lawfully punished for the same offence. We have already seen that the acts of which the party is required to purge himself on oath constitute the crime of treason. Now, if the judgment of the Court in the cases before us, instead of permitting parties to appear without taking
the oath, had been the other way, here would have been the case of a person who, on the reason of the majority, is punished by the judgment of this Court for the same acts which constitute the crime of treason; and yet, if the applicant here should afterwards indiced for treason on account of those same acts, no one would pretend that the proceeding here could be successfully pleaded in bar of that indictment. But why not? Simply because there is here neither trial nor punishment within the legal meaning of these terms.

I maintain that the purpose of the act of Congress was to require loyalty as a qualification of all who practice law in the national courts. The majority say that the purpose was to impose a punishment justly said to be a qualification which is not attainable by all, and that to demand a qualification not attainable by all is a punishment. The Constitution of the United States provides as a qualification for the office of President and Vice President that the person elected must be a native-born citizen. Is this a punishment for all those naturalized citizens who can never attain that qualification? The constitution of nearly all the States requires as a qualification for practicing law that the person should not be over sixty years of age. To a very large number of the ablest lawyers in any State this is a qualification which they can never attain, for every year removes them further away from the designated age. Is it a punishment?

The distinguished commentator on American law and chancellor of the State of New York was deprived of that office by this provision of the constitution of that State. He was, just in the midst of his usefulness, not only turned out of office, but he was forever disqualified from holding it again by law passed after he had accepted the office. Here is a much stronger case than that of a disloyal attorney forbid by law to practice in the courts; yet no one ever thought that the law was ex post facto in the sense of the Constitution of the United States.

Illustrations of this kind could be multiplied indefinitely, but they are unnecessary. The history of the time when this statute was passed, the darkest hour of our great struggle, the necessity for its existence, the humane character of the President who signed the bill, and the face of the law itself, all show that it was purely a qualification exacted to self-defense of all who took part in administering the Government in any of its departments, and that it was not passed for the purpose of inflicting punishment, however merited, for past offenses.

I think I have now shown that the statute in question is within the legislative power of Congress in its control over the courts and their officers. It is a bill of attainder or an ex post facto law. If I am right on the question of qualification and punishment, that discussion disposes also of the proposition that the pardon of the President relieves the party accepting it of the necessity of taking the oath, even if the law be valid. I am willing to concede that the presidential pardon relieves the party from all penalties, or, in other words, from all the punishment which the law inflicts for his offence; but it relieves him from nothing more. If the oath required as a condition to practicing law is not a punishment, as I think I have shown it is not, then the pardon of the President has no effect in relieving him from the requirement to take it. If it is a qualification which Congress had a right to prescribe as necessary to an attorney, then the President cannot, by pardon or otherwise, dispense with the law requiring such qualification. This is not only the plain rule as between the legislative and executive departments of the Government, but it is the declaration of common sense. The man who, by counterfeiting, by theft, or by murder, or by treason, is rendered unfit to exercise the functions of an attorney or counselor at law may be saved by the Executive pardon from the penitentiary or the gallows, but is not thereby restored to the qualifications which are essential to admission to the bar.

No doubt it would be found that very many persons among those who cannot take this oath deserve to be relieved from the prohibition of the law, but this in no wise depends upon the act of the President in giving or refusing a pardon; it remains to the legislative power alone to prescribe under what circumstances this relief shall be extended.

In regard to the case of Cummings vs. The State of Missouri, allusions have been made in argument to the sanctity of the ministerial office and to the inviolability of religious freedom in this country; but no attempt has been made to show that the Constitution of the United States interposes any such protection between the State governments and their own citizens; nor can anything of the kind be shown. The Federal Constitution contains but two provisions on this subject. One of these forbids Congress to make any law respecting the establishment of religion or prohibiting the free exercise thereof; the other is, that no religious test shall ever be required as a qualification to any office or public trust under the United States. No restraint is placed by that instrument on the action of the States; but, on the contrary, in the language of Story, (Commentaries on the Constitution, section 1878,) the whole power over the subject of religion is left exclusively to the State governments, to be acted upon according to their own sense of justice and the State constitution.

If there ever was a case calling for this Court to exercise all the power on this subject which properly belonged to it, it was the case of the Rev. E. Fermoli, reported in 3 Howard, 559. An ordinance of the first municipality of the city of New Orleans imposed a penalty on any priest who should officiate at any funeral in any other church than the Obituary Chapel. Mr. Fermoli, a Catholic priest, performed the funeral services of his Church over the body of one of his parishioners enclosed in a cofin in the Roman Catholic Church of St. Augustine. For this he was fined, and relying upon the vague idea advanced here, that the Federal Constitution protected him in the exercise of his holy functions, he
brought the case to this Court; but, hard as the case was, the Court replied to him in the following language: "The Constitution of the United States makes no provision for protecting the citizens of the respective States in their religious liberties; this is left to the State constitutions adopted by their popular vote, declares that no man shall exercise his ministerial functions unless he will show by his own oath that he has borne true allegiance to his Government; and this Court now holds this constitutional provision void, on the ground that the Federal Constitution forbids it. I leave the two cases to speak for themselves. In the discussion of these cases I have said nothing on the one hand, of the great evils inflicted on the country by the voluntary action of many of those persons affected by the laws under consideration, nor, on the other hand, of the hardships and laws, nor is there any indication of that action than of any laws which Congress could possibly frame; but I have endeavored to bring to the examination of the grave questions of constitutional law involved in this inquiry those principles alone which are calculated to assist in determining what the law is, rather than what in my private judgment it ought to be.

I am requested to say that the Chief Justice and Justices Swayne and Davis concur in this opinion.

Opinion of the Supreme Court of the District of Columbia in a like Case, February 12, 1867.

Chief Justice CARRETT said:

This is a motion on the application of Mr. Allen B. Magruder and others for admission to the bar of this Court, connected with a motion to rescind the rule which provides that each applicant for admission to bar shall, before being admitted, take and subscribe the following oath:

I, ——, do solemnly —— that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise, the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, or corporation, or any part or parcel of the United States, hostile or inimical thereto. And I do further —— that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States immediately antecedent to the outbreak of the rebellion, and a member of the bar of the former circuit court, and as such attorney under the obligation of the following oath, which he took and subscribed on the 12th of December, 1857:

"I do solemnly swear that I will support the Constitution of the United States; that I will not hold myself in obedience to the king or queen of Great Britain; and that I will not; and truly believe and consciently be bound myself to the office of attendant of this court in all things appertaining to the duties thereof, to the best of my skill and judgment; so help me God. And I declare that I believe in the existence of the soul.

It also appears, from his own statement, that about the time of the inauguration of the rebellion, and before the secession of Virginia, he transferred himself from this jurisdiction to that State, where he became an officer of the rebel army, doubtless, as such, binding himself under oath to do all in his power to destroy this Government.

The reason he assigns for the violation of his oath to support the Constitution of the United States, as an attorney of the former circuit court, as we understand him, is that he was a native of Virginia, and owed to Virginia a paramount fealty. The mere statement of his case, as given by himself, would seem to make it impossible for any federal court to incorporate him among its officers. The assumption of State sovereignty and the paramount duty of the citizen to the State is old as a pretense in justification for resistance to federal authority, having been chiefly used as a means to that end; but the constant conflict of intelligent judgment it has been entertained but few. The proposition that a part is greater than the whole, and that the Government of the United States only existed at the will of one of its members, is incapable of belief, and simply argues that the Government of the United States never existed, or if it had existence, had not vitality for self-preservation. The disqualification of the applicant for admission is made more significant if possible by his disinclination and failure to say that in taking the oath he was peremptorily bound himself under oath to do all in his power to destroy this Government.

The essential steadiness of the position, that a State in conflict with the federal power is greater than the nation, and duty to the State greater than duty to the nation, which was put forth prior to the rebellion chiefly as a speculative means to the destruction of the Federal Government, seems still to afflict him, notwithstanding it has been persuaded and whipped out of nearly everybody else of similar hallucination by five years of bloody war and the sacrifice of about a million of men. It will be perceived, from this view of his case, that if the oath in question did not exist, it would still be impossible for the court to give the applicant admission to this bar.

This leads us to the consideration of the motion to rescind the first rule of this court, adopted March 23, 1853, in order that the several parties named in the motion may be admitted as mem-
We understand the motion to be based substantially upon the assumption that the oath is unconstitutional, that its unconstitutionality has been determined by the Supreme Court, and that that determination is mandatory upon the judgment of this court; that it is unconstitutional because it is ex post facto and in the nature of a penalty. It is a fundamental rule, that to authorize the Government, the Court has determined, the first guide to judgment must be prescribed by that rule. The only doubt now existing in this regard has been raised by the expression of the opinion of the majority of that Court.

It is said to be ex post facto and in the nature of a penalty. Let us inquire. The penalty for what act? A law after what act? Does it propose to inflict an additional penalty for the treason committed, or simply to leave the traitor where the treason left him—in the enjoyment of all the ordinary and natural estate of the citizen? The ex post facto penalty contemplated by law is a new penalty prescribed for previous crimes—new punishment for old transgression. Does this rule do that? Is it not withholding a privilege that the party never had, and that does not pertain to the estate of ordinary citizenship? The fact in the premises which it is objected as the bar—a fact which the party never had, and is now for the first time seeking. The condition to the enjoyment of the office complained of here, instead of being after the fact, precedes it, and is really complained of as an obstacle to it. The oath, instead of being a penalty, is simply among the evidences of fitness for the enjoyment of the estate in prospect, which, among other tests, this court has seen fit to impose for the protection of the morals of the bar and the integrity of the Government.

This view of the nature and constitutional character of this rule is sufficiently satisfactory to our mind without the aid even of the acknowledged constitutional power of Congress to make retroactive laws. It is unnecessary to discuss in the light of this argument the effect of the pardon, inasmuch as it is not part of the office of a pardon to create in a criminal new rights disconnected with his crime and which he did not before possess. But it is insisted that the unconstitutionality of this rule has been determined by the Supreme Court, which determination is mandatory upon this court. In ascertaining what the Supreme Court has determined, the first guide to judgment is the consideration of the case that the Supreme Court had before them. If the case before them defines the limits of their opinion, then the case decided by the Supreme Court was the case of an existing member of their bar. The case before us is the case of the application of penalties for admission to the bar. The case in the Supreme Court was a privilege in possession. The case before us is a privilege in prospect. The decision in the Supreme Court involved a dismemberment from the bar. The decision here involves admission to the bar. It may be said of the case in the Supreme Court that the pardon of the President, so far as the legal disabilities of Garland were concerned, removed them. It cannot be said that a similar pardon in the case before us would create the privilege. If the law expended by the majority of the Supreme Court is simply an exposition of the case they had before them, it is not analogous with the case at bar; and it may be well questioned whether it would be authority beyond the limits of the legitimate issues presented. Outside of the issue, at most, it could only be considered as the expression of opinion by eminent judges. The question remaining to be considered in this connection is, conceding the decision of the Supreme Court to be in point, whether it is mandatory upon the judgment of this court. The question is to be determined by the legal relation of this tribunal to that. To make their decision mandatory upon the judgment of this court in the strict definition of their authority, they must have the power of binding the deliberation of this court. The only power they possess in this behalf is given by act of Congress, and regulated by the right of appeal, and confessedly does not extend to the subject under consideration. If there was any doubt upon this point, that doubt has been removed by the repeated decisions of that eminent tribunal. In ex parte Burr, 0 Wheaton, 529, Chief Justice Marshall, delivering the opinion of the Court, said:

"On one hand the profession of an attorney is of great importance to an individual, and the propriety of his whole life may depend on its exercise. The right to exercise it ought not to be lightly or capriciously taken from him. On the other hand it is extremely desirable that the responsibility of the bar should be maintained, and that its harmony and in the nature of creating a new penalty, some discretion, ought to reside in the court.

"This discretion ought to be exercised with great moderation and judgment, lest it be exercised, and no other tribunal can declare in a case of removal from the bar with the same means of information as the court itself. If there be a revising tribunal, which possesses controlling authority, that tribunal will always feel the delicacy of intrusting its authority, and would do so only in a plain case."

In ex parte John L. Tillinghast, 4 Peters, 108, the Court said:

"When, on a former occasion, a mandamus was applied for to restore Mr. Tillinghast to the roll of counselors to the district court, this Court refused to interfere with the matter, and in ex parte Secomb, 19 Howard, page 12, Chief Justice Taney said:

"In the case of Tillinghast vs. Combine, which came before this Court in January term, 1829, a similar motion was overruled by the Court. The case is not reported to the Court, but a brief written opinion was given in the files of the Court, and in which the Court says that the motion is overruled upon the ground that it had not jurisdiction in the case. The removal of the attorney and counselor from the bar is an act of the court, and the relations between the court and the attorneys and counselors is the office of attorney, with its privileges and immunities as a member of this bar—a fact which the party never had, and is now for the first time seeking. The condition to the enjoyment of the bar as an estate of ordinary life may depend on its exercise. The right to exercise it ought not to be lightly or capriciously taken from him. On the other hand it is extremely desirable that the responsibility of the bar should be maintained, and that its harmony and the integrity of the Government."

The Court has not decided the case before us. The case decided by the Supreme Court was the case of an existing member of their bar. The case before us is the case of the application of penalties for admission to the bar. The case in the Supreme Court was a privilege in possession. The case before us is a privilege in prospect. The decision in the Supreme Court involved a dismemberment from the bar. The decision here involves admission to the bar. It may be said of the case in the Supreme Court that the pardon of the President, so far as the legal disabilities of Garland were concerned, removed them. It cannot be said that a similar pardon in the case before us would create the privilege. If the law expended by the majority of the Supreme Court is simply an exposition of the case they had before them, it is not analogous with the case at bar; and it may be well questioned whether it would be authority beyond the limits of the legitimate issues presented. Outside of the issue, at most, it could only be considered as the expression of opinion by eminent judges. The question remaining to be considered in this connection is, conceding the decision of the Supreme Court to be in point, whether it is mandatory upon the judgment of this court. The question is to be determined by the legal relation of this tribunal to that. To make their decision mandatory upon the judgment of this court in the strict definition of their authority, they must have the power of binding the deliberation of this court. The only power they possess in this behalf is given by act of Congress, and regulated by the right of appeal, and confessedly does not extend to the subject under consideration. If there was any doubt upon this point, that doubt has been removed by the repeated decisions of that eminent tribunal. In ex parte Burr, 0 Wheaton, 529, Chief Justice Marshall, delivering the opinion of the Court, said:

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who practiced in it, and their respective rights and duties, are regulated by the common law and it has been well settled by the common rules and practice of the common law, that it cannot be determined by this court without submitting the same to the determination of its officers as an attorney and counsellor, and for what cause he ought to be removed.

After these repeated decisions this question may be said to be re-considered to bow to it.

The inherent right of each court to regulate its own rules of practice, including the terms of admission of attorneys to and dismissions from the bar, has come down to us unquestioned through the long life of the common law. With regard to this court, and its inherent power of making its rules of admission to and dismission from the bar, Congress, the law-maker of this court, has not only confirmed the common law power of the court, hitherto deemed almost necessary to the court, but made it the duty of the court, in the opinion of one of that Court, to exercise that power, leaving the court to determine the practice to be followed in the admission of attorneys to and dismission from the bar, and the inherent right of each court to regulate its admission to and dismission from the bar, has come down to us unquestioned through the long life of the common law. These considerations are conclusive of the assumption that the opinion referred to is authoritative with this court. While we deny to this decision of the Supreme Court the office of such authority, we acknowledge the potency of that opinion as a guide to the judicial duties of this court.

In January term, 1835, the Supreme Court, by the act of the 3d March, 1863, the late circuit court and the late criminal court of this District were abolished, and their powers and jurisdiction transferred to the supreme court of the District of Columbia, which was established by the same act. That act also conferred upon this court full power to make all rules which it might think proper relating to the practice of the court.

At the first meeting of the new court, held on the 23d of March, 1863, it was ordered that all applicants for admission to the bar should take and subscribe, as a condition of their admission, the oath, which the judges had themselves voluntarily taken, prescribed by the act of Congress approved July 2, 1862.

That act is in the following words:

"That hereafter everyone elected or appointed to any office of honor or profit under the Government of the United States, or the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have never given aid and comfort to the enemies of the United States; that I have not yielded a voluntary support to any pretended government, authority, or constitution within the United States hostile or inimical thereto; and I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; that I will well and faithfully discharge the duties of the office on which I am about to enter; so help me God."

This oath has been taken and subscribed by every one who has since been admitted to the bar of this court.

The act, however, was not of itself obligatory upon the court or any of its officers, but only upon persons in the civil, military, or naval departments of the public service.

But we were in the midst of a terrible civil war; surrounded by a large population, many of whom were, in sentiment at least, direct to the Government; we were a court created by the United States, to stand if it stood, and be destroyed if it were overthrown; we were a court disestablished if it were overthrown; we were at the capital of the nation, and yet in sight of the armed forces of the rebellion. Treason walked our very streets defiantly, and encouraged its partisans amongst us with the promise of a speedy triumph of the rebellion.

It was at a time like this that the court felt...
itself called upon to exert its whole power to exceed the trai tors to their country from admission to the bar of one of that country's courts, and we ordained the rule which we now have under consideration.

Its constitutionality was not then called in question, nor was its propriety doubted.

The office of attorney at law is one known to the common law, and with us is regulated in part by that law, partly by several acts of the Assembly of Maryland yet in force in this District, and partly by the act of Congress of 31 March, 1863, creating this court. The English statutes relating to attorneys at law are not in force here.

At common law no one was allowed to practice law in any court till after examination and admission, and every court possessed the exclusive power of prescribing the qualifications and conditions for admission to its bar. Blackstone says:

“No one can practice as an attorney in any of the courts of Westminster Hall but such as is admitted and sworn an attorney of that particular court; an attorney of the court of king's bench cannot practice in the common pleas, nor vice versa.”

The statute of Maryland of April, 1715, ch. 41, sec. 2, conferred upon the courts of that State full powers to make such rules and orders from time to time for the well-governing and regulating the said courts, and the officers and attorneys thereof, as to the courts, in their discretion, shall seem meet.

By another act of Maryland of the same year and month, ch. 43, sec. 12, the justices of the courts of that State were invested with authority to admit and to suspend attorneys at the bar without qualification or restriction, (save jure corone,) except that no court should admit any attorney to its bar without requiring of him the oath of allegiance prescribed by the act of Parliament, passed in the 6th of Queen Ann, entitled “An act for the decision of the person and government, and of the succession to the crown of Great Britain in the Protestant line.”

These acts, though more than a hundred and fifty years old, yet still the law of this District, except that the Government of the United States has succeeded to the allegiance which was formerly sworn to the queen of Great Britain; and our rule has furnished a fitting substitute for that oath, accommodated to the changes of governments which have taken place in this country since the reign of Queen Ann.

Being then a court of the United States, vested with full power to establish our own rules for the admission of members to the bar, and for governing and regulating the court and the officers and attorneys thereof, without accountability to any other court, it would seem that we should ourselves be the ultimate judges of all the law upon these subjects. And, in my judgment, this principle has been affirmed and settled by the Supreme Court of the United States in Scioaml's case, 10 Howard R., 8.

It is not to be inferred from this, however, that we are at liberty, in regard to these matters, to transgress against the Constitution of the United States at our pleasure. On the contrary, it is the sworn obligation and duty of the court faithfully to support that Constitution. As it regards the question of the constitutionality of our test-rule, it is not my intention to discuss that subject on this occasion. I have as yet heard no arguments which have disturbed my original convictions on that point.

The recent decision of the Supreme Court of the United States in Garland's case has been made the occasion of the present motion, and has been cited as settling the question against the rule. But I do not so understand that decision. On the contrary, it seems to my apprehension plainly inapplicable to the case under consideration. In the act of Congress of January 24, 1865, the Supreme Court had adopted a rule to carry out the provisions of that act, which were as follows: “That no person, after the date of this act, shall be admitted to the bar of the Supreme Court of the United States, or at any time after the 4th of March next shall be admitted to the bar of any circuit or district court of the United States, or of the Court of Claims, as an attorney or counsel or of such court, or shall be allowed to appear and be heard in any such court by virtue of any previous admission, or any special power of attorney, unless he shall have first taken the oath prescribed in an act to prescribe an oath of office, and for other purposes approved July 2, 1862, according to the form and in the manner in the said act prescribed.”

Garland had been admitted an attorney and counsel or of the Supreme Court at the December term, 1860. He subsequently committed treason against the United States by taking part in the late rebellion, but was pardoned by the President. He then presented his petition to the Court, asking permission to appear and continue to practice there under his admission of 1860 and the pardon of the President, without being required to make the oath prescribed by the act of January 24, 1865, and the rule of court made in pursuance of said act.

The power of the Court was that his application should be granted; and the grounds of this decision were, that the pardon granted by the President had blotted out the crimes of his rebellion, as though they had never been committed, and that being thus innocent of all offence in the eye of the law, he could not be a proper subject for punishment, or of exclusion from the privileges of the court, which had formerly belonged to him.

Mr. Justice Field, who delivered the opinion of the Court, says: “The effect of this pardon is to relieve the petitioner from all penalties and disabilities attached to the offence of treason committed by his participation in the rebellion. So far as that offence is concerned, he is thus placed beyond the reach of punishment of any kind; but to exclude him, by reason of that offence, from continuing in the enjoyment of a previously acquired right, is to enforce a punishment for that offence notwithstanding the pardon.”

I can have no controversy with the Supreme Court as to that doctrine. It merely teaches that Garland, having been already admitted to the bar before the commencement of the war, and having received perfect absolution for his offences committed during the rebellion, he was not subject to the operation of either the act of
Congress or the rule of the court, any otherwise than one who had been loyal to the Government throughout the war.

The facts in Garland's case required the Court to go no farther than this, but the opinion does go farther, and pronounces, in effect, that Garland, who has been entitled to continue to practice in that Court, even without having been pardoned by the President for his treason, on the ground that to deprive him of the right to pursue his profession in that Court would have been a penalty inflicted for his offence, to which he was not liable at the time of its commission.

Although there is one passage in this opinion which seems to go even beyond this, and to advance the doctrine that the Court had no right to debar a man from admission to the profession on account of crimes previously committed, yet I am not disposed to believe that the Court intended to advance or to advocate, even obiter, a doctrine so extreme as that. If such, however, be the fair construction of the opinion, (and nothing short of such construction will answer the object of either of the motions now under our consideration,) I am constrained to aver my unwillingness to obey the doctrine thus promulgated.

In the first place, the facts in the case of Garland called for no such decision; and, in the second place, having the absolute right ourselves to prescribe our own rules for admission to the bar, as has heretofore been said, we are not required to do violence to our convictions, in following such an interpretation of the Constitution, when given even by the eminent justices who have presided in that opinion. The opinion, in that respect, not coming to us with mandatory authority, I must for myself be permitted to look upon it only as the opinion of five gentlemen, equally learned and able, and against the judgment of the whole legislative branch of the Government, by which the law was enacted, and whilst I acknowledge the importance of the principle that res adjudicata pro veritate accipitur, yet in this matter I am at perfect liberty to test the opinion of these five gentlemen by the application of that other maxim of the law, testi monia ponderanda sunt, non numeranda. Tried by this test, it appears to me that the preponderance of authority is not on the side of the doctrine of the Court's opinion on this point. In Fletcher vs. Peck, 6 Cranch, 87, Chief Justice Marshall says: "The question whether a law be void for its repugnancy to the Constitution is at all times a question of much delicacy, which ought seldom, if ever, to be decided in the affirmative in a doubtful case."

I am of the opinion, therefore, that the decision of the Supreme Court in Garland's case, even if received as authority and interpreted in its widest latitude, falls far short of requiring us to declare our rule void for unconstitutionality. Our rule applies only to persons not yet admitted to the bar, and who, therefore, possess no "previously acquired right" of which its enforcement can deprive them.

The rule of the Supreme Court was different from ours. It required persons already members of that bar to take the oath, under penalty of forfeiture of their "previously acquired right." Ours has no such operation.

It is true that one branch of the rule of the Supreme Court applied, like ours, also to persons asking for admission to that bar, and we are told that the rule has been wholly disregarded —no part of it preserved—in consequence of the decision in Garland's case. This may be true, but we have received no judicial evidence to convince our minds of the fact, and if it has been done, it must have been for other reasons than those furnished by the opinion of the Court in that case.

In respect to the application of Magruder, the case is this: He is a native of Virginia, but for several years previous to the rebellion was a citizen of the United States, having his domicile in this District, and was a member of the bar of the late circuit court of this District. In April or May, 1861, he left us, and entered into the rebellion on the call of Virginia, and continued until the close of the war in armed hostility to the United States.

He has since received the pardon of the President for his offence, and been admitted to practice in the Supreme Court of the United States since the decision in Garland's case was made.

But the fatal objection to his admission to our bar is that he is now only applying for admission for the first time, and cannot furnish the requisite evidence of a previously acquired right whose continued enjoyment he might demand at the hands of the Court, and is unable to take the oath required by our rule.

In his case, too, there is an additional reason, of great force in our judgment, which forbids his admission, and it is this: On being admitted to the bar of the late circuit court, he was sworn, among other things, "to support the Constitution of the United States," and should he be admitted to practice in the bar of this court, would be required to take the same oath again. This oath has, meaning, and was prescribed for an object. We understand that it requires him who takes it to support the Constitution of the United States as the supreme law of the land, in all cases in which its provisions come into conflict with the constitution or laws of any of the States, and in this sense to require a primary and paramount allegiance to the Government of the United States.

Mr. Magruder has told us that in taking up arms against the United States he acted conscientiously, and indignantly repels the imputation that he had violated his oath to support the Constitution. He says that he regarded himself as under "duality of allegiance," that his first and paramount allegiance was due to his native State, and his secondary and subordinate allegiance was due to the United States; and that it was in this belief, honestly entertained, he went into the rebellion, in obedience to the call of his State, although he was himself of the opinion that the rebellion was without any just cause.

He acknowledges to have had no change of opinion on these points to the present hour.

Were we now, with a full knowledge of these facts, to admit him to take this oath, the ceremony would be a meaningless farce; we should
a mere ministerial duty, the performance of which might be judicially enforced.

In each of these cases nothing was left to discretion. There was no room for the exercise of judgment. The law required the performance of a single specific act; and that performance, it was held, might be required by mandamus.

Very different is the duty of the President in the exercise of the power to see that the laws are faithfully executed, and among those laws the acts named in the bill. By the first of these acts he is required to assign generals to command in the several military districts, and to detail sufficient military force to enable such officers to discharge their duties under the law. By the supplementary act other duties are imposed on the several commanding generals, and their duties must necessarily be performed under the supervision of the President, as Commander-in-Chief. The duty thus imposed on the President is in no just sense ministerial. It is purely executive and political.

An attempt on the part of the judicial department of the Government to enjoin the performance of such duties by the President might be justly characterized, in the language of Chief Justice Marshall, as "an absurd and excessive extravagance."

It is true that in the instance before us the interposition of the Court is not sought to enforce action by the Executive under constitutional legislation, but to restrain such action under legislation alleged to be unconstitutional.

But we are unable to perceive that this circumstance takes the case out of the general principle which forbids judicial interference with the exercise of executive discretion.

It was admitted in the argument that the application now made to us is without a precedent, and this is of much weight against it. Had it been supposed at the bar that this Court would in any case interpose to arrest the execution of an unconstitutional act of Congress, it can hardly be doubted that applications with that object would have been herebefore addressed to it. Occasions have not been infrequent.

The constitutionality of the act for the annexation of Texas was vehemently denied. It made important and permanent changes in the relative importance of States and sections, and was by many supposed to be pregnant with disastrous results to large interests in particular States. But no one seems to have thought of an application for an injunction against the execution of the act by the President.

And yet it is difficult to perceive upon what principle the application now before us can be allowed, and similar applications in that and other cases could have been denied.
The fact that no such application was ever before made in any case indicates the general judgment of the profession that no such application should be entertained.

It will hardly be contended that Congress can interpose, in any case, to restrain the enactment of an unconstitutional law; and yet how can the right to judicial interposition be exercised in cases subject to its cognizance.

The impropriety of such interference will be clearly seen upon consideration of its probable consequences.

Suppose the bill filed and the injunction prayed for be allowed. If the President refuse obedience, it is needless to observe that the Court is without power to enforce its process. If, on the other hand, the President comply with the order of the Court, and refuses to execute the act of Congress, is it not clear that a collision may occur between the executive and legislative departments of the Government? May not the House of Representatives impeach the President for such refusal? And in that case could this Court interpose in behalf of the President, thus endangered by compliance with its mandate, and restrained by procedure of the Senate of the United States from sitting as a court of impeachment?

Would the strange spectacle be offered to the public wonder of an attempt by this Court to arrest proceedings in that court?

These questions answer themselves. It is true that a State may file an original bill in this Court; and it may be true, in some cases, such a bill may be filed against the United States. But we are fully satisfied that this Court has no jurisdiction of a bill to enjoin the President in the performance of his official duties, and that no such bill ought to be received by us.

It has been suggested that the bill contains a prayer that if the relief sought cannot be had against Andrew Johnson as President, it may be granted against Andrew Johnson as a citizen of Tennessee. But it is plain that relief against the execution of an act of Congress by Andrew Johnson is relief against its execution by the President. A bill praying an injunction against the execution of an act of Congress by the incumbent of the presidential office cannot be received, whether it describes him as President or simply as a citizen of a State. The motion for leave to file the bill is therefore denied.

In the case of The State of Georgia against certain officers, the Attorney General makes no objection to the policy of the bill, and we will, therefore, grant leave to file that bill.

Mr. Sharkey. It the Court please, objection to the bill which I attempted to file seems to be that it is an effort to enjoin the President. The bill is not filed, and I can reform it to suit the views of the Court, and present it again.

The Chief Justice. Leave to file the bill is refused. When another bill is presented it will be considered.

Mr. Sharkey. Do I understand the Court to say that the application can be made on Thursday?

The Chief Justice. On Thursday.

This subpoena was issued in the case, April 16th, 1867.

The State of Georgia, complainant vs. Edwin M. Stanton, Ulysses S. Grant, and John Pope, defendants. In equity.

The President of the United States to Edwin M. Stanton, Ulysses S. Grant, and John Pope, greeting:

For certain causes offered before the Supreme Court of the United States, holding jurisdiction in equity, you are hereby commanded that, laying all other matters aside, and notwithstanding any excuse you be and appear before the said Supreme Court, holding jurisdiction in equity, on the first Monday in December next, at the city of Washington, in the District of Columbia, being the present seat of the National Government of the United States, to answer unto the bill of complaint of the State of Georgia in the said Court exhibited against you. Hereof you are not to fail at your peril.

Witness: The Honorable Salmon P. Chase, Chief Justice of the said Supreme Court, at the city of Washington, the first Monday of December, in the year of our Lord one thousand eight hundred and sixty-six, and of the Independence of the United States of America the ninety-first.

D. W. Middleton,
Clerk of the Supreme Court of the U. S.

XXI.

RESOLUTIONS OF NATIONAL AND STATE CONVENTIONS.

Of the Philadelphia Fourteenth of August Convention.

They were reported August 17th, by Hon. Edgar Cowan, chairman of the committee on resolutions, and were unanimously adopted:

DECLARATION OF PRINCIPLES.

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 lesson which, for the last five years, it has seemed 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
RESOLUTIONS OF CONVENTIONS.

1. That the loyal people of the South cordially unite with the people of the North in thanksgiving to Almighty God, through whose will a rebellion unparalleled for its causelessness, its cruelty, and its criminality has been overruled to the vindication of the supremacy of the Federal Constitution over every State and Territory of the Republic.

2. That we demand now, as we have demanded at all times since the cessation of hostilities, the restoration of the States in which we live to their old relations with the Union, on the simplest and fewest conditions consistent with the protection of our lives, property, and political rights, now in jeopardy from the unquenched enmity of rebels lately in arms.

3. That the unhappy policy pursued by Andrew Johnson, President of the United States, is, in its effects upon the loyal people of the South, unjust, oppressive, and intolerable; and accordingly, however ardently we desire to see our respective States once more represented in the Congress of the nation, we would deplore the violations of the Constitution and the laws, of which we have had occasion to complain, and the loss of confidence in the capacity and integrity of the federal Government.

4. That with pride in the patriotism of the Congress, with gratitude for the fearless and persistent support they have given to the cause of loyalty, and their efforts to restore all the States to their former condition as States in the American Union, we will stand by the position taken by them, and use all means consistent with a
peaceful and lawful course to secure the ratifica-
tion of the amendments to the Constitution of
the United States, as proposed by the Congress
at its recent session, and regret that the Con-
gress, in its wisdom, did not provide by law for
the greater security of the loyal people in the
States not yet admitted to representation.
5. That the political power of the Government
of the United States in the administration of
public affairs is, by its Constitution, confined to
the popular or law-making department of the
Government.
6. That the political status of the States lately
in rebellion to the United States Government,
and the rights of the people of such States, are
political questions, and are therefore clearly
within the control of Congress to the exclusion
of the independent action of any and every
other department of the Government.
7. That there is no right, political, legal, or
constitutional, in any State to secede or with­
drawn from the Union; that they may, by wicked
constitutional, in any State to secede or with­
other department of the Government.

8. That we are unalterably in favor of the
liberal soldiers and sailors" who made the grand
army and navy of the Republic to be true to
the principles for which they fought, we pledge
them that we will stand by them in maintaining
the honor due the saviors of the nation, and in
securing the fruits of their victories.
14. That, remembering with profound grati­
dude and love the precepts of Washington, we
should accustom ourselves to consider the Union
as the primary object of our patriotic desire,
which has hereofore sustained us with great
power in our love of the Union, when so many
of our neighbors in the South were waging war
for its destruction; our deep and abiding love for
the memory of the Father of his Country and
for the Union is more deeply engraved upon our
hearts than ever.

After the adjournment of this convention, the
loyalists of the non-reconstructed States met
and adopted an address, closing with this declara-
tion: "We affirm that the loyalists of the South look
to Congress with affectionate gratitude and con­
fidence, as the only means to save us from per­
secution, exile, and death itself; and we also de­
cide that there can be no safety for us or our
children; there can be no safety for the country
against the fall spirit of slavery, now organized
in the form of servitude, unless the Government,
by national and appropriate legislation, enforced
by national authority, shall confer on every citi­
en in the States we represent the American birth­
right of impartial suffrage and equality before
the law. This is the one all-sufficient remedy.
This is our great need and pressing necessity.

The vote was as follows: TEXAS, 10 yeas;
LOUISIANA, 14 yeas; VIRGINIA, 28 yeas, 3 nays;
GEORGIA, 8 yeas, 1 day; ALABAMA, 2 yeas, 3
nays; MARYLAND, 1 yeas; ARKANSAS, 2 yeas;
NORTH CAROLINA, 1 yeas, 2 days; FLORIDA, 2
yeas, 1 day.

Pittsburgh Convention of Soldiers and Sailors,
September 28, 1866.

General Benjamin F. Butler reported these
resolutions, which were adopted unanimously:

1. That the organizations of the unrepresented
States, assuming to be State governments, not
having been legally established, are not legiti-
mate governments until reorganized by Congress.
2. That we welcome we have received from
the loyal citizens of Philadelphia, under the
roof of the time-honored Hall in which the Declar­
ation of Independence was adopted, inspires
us with an animating hope that the principles
of just and equal government, which were made
the foundation of the Republic at its origin, shall
become the corner stone of reconstruction.
3. That we cherish with tender hearts the
memory of the virtues, patriotism, sublime faith,
upright Christian life, and generous nature of the
martyr President, Abraham Lincoln.
4. That we are in favor of universal liberty
the world over, and feel the deepest sympathy
with the oppressed peoples of all countries in
their struggles for freedom and the inherent right
of all men to decide and control for themselves
the character of the government under which
they live.
5. That the lasting gratitude of the nation is
due the men who bore the hardships of the bat­
tle, and, incurring themselves with imperish­
able glory, have saved to the world its hope of
free government; and relying upon the "invin­
Their midst of many brave and faithful comrades freed us, and peace; deploring the absence from Government, and the flag of the Union, grateful through the perils and hardships of war, and for recent war for the suppression of the insurrections, which were adopted unanimously:

His mercy in crowning their efforts with victory, to Almighty God for His preservation of them from the perils and hardships of war, and for His mercy in crowning their efforts with victory, freedom, and peace; deploring the absence from their midst of many brave and faithful comrades who had sealed with their life blood their devotion to the sacred cause of American nationality, and determined now as heretofore, to stand by the principles for which their glorious dead have fallen, and by which the survivors have triumphed, being assembled in National Mass Convention in the city of Cleveland, Ohio, this 17th day of September, 1866, do resolve and declare—

1. That we heartily approve the resolutions adopted by the National Union Convention held in the city of Philadelphia, on the 14th day of August last, composed of delegates representing all the States and Territories of the United States.

2. That our object in taking up arms to suppress the late rebellion was to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired, and not in any spirit of oppression, nor for any purpose of conquest and subjugation; and that whenever there shall be any armed resistance to the lawfully constituted authorities of our national Union, either in the South or in the North, in the East or in the West, emulating the self-sacrificing patriotism of our revolutionary forefathers, we will again pledge to its support our lives, our fortunes, and our sacred honor.

STATE CONVENTIONS, 1867.

Connecticut.

Republican, January 24.

1. That the result of the elections of the last autumn affords new proof of the devotion of the American people to the fundamental principles of free government, and of their determination to establish and confirm a Union based upon those principles only; that we congratulate each other and the country upon that auspicious result, and pledge ourselves that Connecticut, in this respect, shall emulate the example of her loyal sister States.

2. That the pending amendment to the Federal Constitution, in the generous magnanimity of the terms which it proposed to the late insurgents, deserved and should have received their grateful recognition; that its rejection by them proceeds from a still prevailing spirit of rebellion, and imposes upon the national authority the duty of establishing the Union upon none other than just and durable foundations; that, in so doing, loyalty to the Republic should be recognized as the first of political virtues, and disloyalty as the worst of political crimes, and that the protection of all citizens throughout the Republic in the exercise of all the rights and immunities guarantied by the Constitution should be inviolably secured.

3. That the only just basis of human governments is the consent of the governed; that in a representative republic, such a consent is expressed through the exercise of the suffrage by the individual citizen, and that the right to that exercise should not be limited by distinctions of race or color.

4. That in any revision of the revenue system the duties upon imports should be adjusted with a view to the encouragement of American industry, without impairing the public revenue, and...
That the burdens now imposed by internal taxation should be alleviated as far as possible, and especially by the reduction of existing taxes upon incomes and sales.

5. That in the administration of State policy we are in favor of a rigid economy in expenditures, and permanent provision for the steady reduction and final payment of the State debt.

6. That the Republican party is identified in its principles with the rights, the interests, and the dignity of labor; that by all the record of that history and all the sanctity of those principles it is bound in sympathy with the toiling masses of society, of whom is composed the great proportion of its number, and that the workingmen of Connecticut will receive at its hands every needed legislative remedy of the evils of which they complain.

7. That the present salutary law concerning the employment of children in manufactories will receive at its hands every needed legislative amendment to extend its protection to the working children of the State.

8. That the party regards with earnest solicitation the struggles of oppressed nationalities toward independence and purest liberty, and that it extends its earnest sympathy to Crete, to Ireland, and to Mexico, in their heroic efforts to liberate themselves from hated foreign domination.

9. That the so-called Democratic Convention at New Haven, by its malignant spirit of hostility to the Federal authority, its deliberate and avowed determination to destroy the organization and subvert the authorities of said States, attacks the very principle that lie at the foundation of our system of government, and strikes a fatal blow at the financial and commercial and industrial interests of the entire people of the Union.

10. That a grateful people will never forget or cease to revere the heroic soldiers and sailors who, during the dark days of the rebellion, devoted their strength, their constancy, and their valor to the overthrow of an unholy rebellion, and rescued the country from its peril, and established the Government on the rock of universal liberty.

11. That we heartily recommend to the people of this commonwealth the gentlemen nominated by this Convention for State officers, and pledge ourselves to their cordial support and triumphant election.

Democratic, January 8.

Whereas, it becomes a free and intelligent people, justly jealous of their rights and liberties, to frankly and fearlessly assert their views upon all great and important public questions; and

Whereas, when armed resistance to the authority of the United States ceased each of the several States that had been in antagonism to the Government became, by the inherent force of the Constitution and the fundamental principles upon which our system of government is based, reinstated and restored to all their rights and privileges; and

Whereas, the Supreme Court of the United States has declared "that if military government is continued after the courts are reinstated, it is a gross usurpation of power. Martial rule can never exist where the courts are open and in the proper and unobstructed exercise of their jurisdiction;" Therefore,

Resolved, That each and all of the States that were arrayed in armed opposition to the authority of the Government of the United States, having ceased such opposition, are now entitled to representation in the Congress of the United States, and to all other rights and privileges appertaining to the States of the Union.

2. That the Congress of the United States, in its present exclusion of the Senators and Representatives of said States; in its open and avowed determination to destroy the organization and subvert the authorities of said States, violates and undermines the Constitution of the United States, attacks the very principles that lie at the foundation of our system of government, and strikes a fatal blow at the financial and commercial and industrial interests of the entire people of the Union.

3. That the Congress of the United States, in all its legislation, in its act levying internal taxes upon all the States, including the said States expressly by name; in its act prescribing the number of Representatives in Congress for all the States; in its act in submitting the constitutional amendment abolishing slavery to all the States; in its act of last session, submitting another proposed constitutional amendment to all the States; in its joint resolution, passed with almost entire unanimity, declaring the object of the war to be "to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired," and in other acts has uniformly, from the commencement of the civil war to the present time, in the most deliberate manner, recognized said States as existing States, and as States in the Union.

4. That the executive department of the United States, by its proclamations, its administrative action, and in its diplomatic intercourse with foreign Powers, has uniformly recognized all the said States as existing States, and as States in the Union.

5. That the judicial department of the United States, including the Supreme Court at Washington, the circuit courts in the several circuits, and the district courts in their respective districts, has uniformly recognized the said States as existing States, and as States in the Union.

6. That this repeated recognition of said States as existing States, and as States in the Union, by the executive, judicial, and legislative departments of the Government, leaves no question that the exclusion of these States from Congress, governing them and taxing them without representation, is not only a violation of the Federal Constitution in its most essential part, and tyranny as defined by the Declaration of Independence, but a most flagrant breach of public faith, alike prejudicial to the best interests and to the honor of the country.

7. That in the Supreme Court of the United States we possess a tribunal that may be justly termed the bulwark of republican liberty, and in the language of its eminent jurists, "The Constitution of the United States is law for rulers and people, equally in war and in peace, and covers with its shield of protection all classes of men under all circum-
RESOLUTIONS OF CONVENTIONS.

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Rhode Island.

DEMOCRATS, MARCH 11.
1. That frequent innovations upon our laws are pernicious, as tending to confuse the minds of the people and destroy that reverence for legal authority which is essential to the perpetuity of the State and the safety of the citizen.
2. That we regard the judiciary as the shield of the people against the unwise or arbitrary acts of popular or official passion, and that any attempt to weaken or override the authority of our courts, or to detract from their dignity, impairs the very existence of the Republic.
3. That after an exhaustive war our whole energy should be turned to the development of all our internal resources and to the increase of our commerce; that our system of taxation ought to be so adjusted as to bear equally upon all classes of the community and all sections of the country, to necessitate the least expense in collection, and relieve as rapidly as possible the burden of debt; that our laws ought to be so framed as to require the smallest possible number of officials in their execution, since a multiplicity of officers begets arrogance and corruption in the holders, and discontent in the people, who unwillingly lavish that money upon the leeches on the body politic which should go to nourish the body itself.
4. That the Democratic party, having spent much of its blood in a struggle to preserve the Union, will watch earnestly and anxiously and labor patiently for the same great end in the present not less terrible, though bloodless, conflict. We believe it to be the duty of all people, in all sections of the Republic, to accept the circumstances which have resulted from war; to endeavor by all means consistent with honor to adapt themselves to the new status thus created, and to conform to it both in legislation and in personal and official regard for each other. As to political supremacy, we are content to await the hour when the fury of passion gives place to the temperance of reason, and the bitterness of hate is lost in the lapse of time.

Maryland.

REPUBLICAN, FEBRUARY 27.

Whereas the present state of national affairs, and the action of the coalition which, by the treachery of Governor Swann, now usurps the power of the State, have caused this assemblage of the Unconditional Union men of Maryland, and render proper a clear utterance on all the issues of the times: Therefore,

Resolved, by the Republican Union party of Maryland, in State Convention assembled, That we cordially approve the reconstruction bill, which has been passed by Congress, and that we declare the principles of universal manhood suffrage contained therein to be the only secure basis of reconstruction, and that the time has come when its adoption by every State is demanded by every consideration of right and interest.

2. That we hail the result of the late election in Georgetown as a practical proof of the wisdom of Congress, and as the omen of loyal control over all the South.
3. That the convention bill now before the Legislature is in conflict with the existing constitution, and can be made valid only by the consent of the people of the State and the Government of the United States; and that no change of the existing constitution can or shall be made, or ought to be recognized by Congress, which is not made by universal manhood suffrage, without respect to color.
4. That we request the Republican members of the State Senate to prepare an amendment to said bill basing representation upon population and submitting the question of a convention to all the male citizens of the State, and providing for a new State government upon the basis of universal manhood suffrage; and that we shall insist that any change in the constitution shall be made upon this basis, and that no State government now erected without universal manhood suffrage ought to be considered republican; and that, in the event of the passage of the oppressive and anti-republican bill now before the Legislature, we will appeal to Congress to provide for the assembling of a convention in this State on the basis of the reconstruction bill, and to organize a loyal State government with impartial suffrage.
5. That further to carry out the object of the foregoing resolutions, this convention, when it adjourns, stands adjourned to meet at the call of its president, on such early day after the adjournment of the Legislature as the president may by public notice direct, and in the event of the president being prevented by any cause from acting, the chairman of the State Central Committee be empowered to make such call.
REPUBLICANS, MARCH 27.

Whereas the Legislature of Maryland has since the adjournment of this Republican State Convention on the 24th of February, passed the said convention bill, in regard to which this convention has already in previous resolutions declared its judgment, and this convention is now reassembled for its fifth resolution on the contingency of the passage of said convention bill: Therefore,

Resolved, That we return our thanks to the Republican members of the General Assembly for their memorial to Congress presented to that body on the 23rd of March, and this convention in behalf of the majority of the people of Maryland appeal hereby to the Congress of the United States to grant the request of that memorial.

2. That we will oppose any new constitution set up in subversion of the existing constitution under the convention bill which does not express the will of the majority of the people with regard to color, and that we will, with the aid of the loyal representatives of the nation, and by all means in our power, resist and destroy any such constitution as a revolutionary usurpation.

3. That we will take no part in the approaching election for delegates to a constitutional convention further than the vote of the Republicans of the State against the call for a convention, and to use every lawful means in their power to defeat the call.

4. That should the call be sustained by an illegally increased, the colored population is equal to or greater than the white. The House of Representatives of the United States has already passed a resolution of inquiry whether the present constitution of this State is now republican, and since the colored man is now a citizen, it may well be doubtful whether a State which excludes for a crime one-fourth of its population who are citizens is republican. This General Assembly has inaugurated, however, a movement which, from the illegal representations made in the bill itself, actually now accomplishes not only the exclusion of this people from the franchise, but also gives the disloyal population a representation for them.

While the present judiciary of the State is for the most part loyal, and one object of this movement is to legislate out all the remaining loyal officers whom they have not already removed, and place-except in the rear of the capital, and one armed force, composed largely of disloyal juries in many counties; immigration to the State, and in spite of which they did give large aid to men and money, they have marked their session by a series of acts to which we desire to call your attention.

The rebellion in South Carolina, a few years since, was the war has largely added to their number. By deliberate construction of a clause of the existing constitution, the General Assembly, thus elected, has disfranchised all white men, no matter what treason they have committed, and thus have added to the voting population about 20,000 persons who have not only been attacked, but also, by deliberate construction of the same clause, has disfranchised all whites, no matter what treason they have committed. They have, by deliberate vote, refused to exclude, even from the highest offices under the existing law, any person who has not that he may obtain a seat in the rebel army, and they are about to put in force this law, the effect of which is against our own constitution and the laws of Congress, and which, if not put in force this law, the effect of which is against our own constitution and the laws of Congress, and which, if put in force, would put this State back into a condition of slavery.

The present judiciary of the State is for the most part loyal, and one object of this movement is to legislate out all the remaining loyal officers whom they have not already removed, and place-except in the rear of the capital, and in spite of which they did give large aid to men and money, they have marked their session by a series of acts to which we desire to call your attention.

While the South is about to commence a career of freedom and progress, those men, who by the laws of the past, have determined, by the form of law, but in real violation of both the State and Federal law, to put this State back into a condition of darkness and slavery. These acts, we submit, are in violation of State and national law, oppressive, revolutionary, and dangerous to the order and peace of this nation. The Union men of Maryland are growing weak, and the only check to this tyranny; they are about to put in force this law, the effect of which is against our own constitution and the laws of Congress, and which, if put in force, would put this State back into a condition of slavery.

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Resolved, That the State Central Committee, on ascertaining that result, issue a call for district meetings to be held in every election district in the State, for the choice by ballot, on the basis of universal manhood suffrage, of delegates to a State constitutional convention, each county and the city of Baltimore to elect the number to which they may be entitled under the present constitution of the State.

That said constitutional convention, if called, shall assemble in the city of Baltimore on the first Wednesday in June, and proceed to form a constitution based on universal manhood suffrage.

That courage, wisdom, and action are all that is necessary to success, and we call on the tried Union veterans of the State, who have been hardened by the conflicts of six years of battle and agitation, to fly high the banner of liberty and Union, and know no end but victory.

This memorial was presented, and referred to the Committee on the Judiciary.

CALL FOR STATE REPUBLICAN CONVENTION.

At a meeting of the Republican Union State central committee of Maryland, held on Wednesday, April 17, 1867, the following resolutions were unanimously adopted:

Resolved, That all male citizens of Maryland, who are opposed to the organized conspiracy about to assemble at Annapolis on the 8th day of May, are requested to meet in primary assemblies in the various counties and the city of Baltimore, at such time as may be most convenient, to elect delegates to a State Republican convention, which shall assemble in Baltimore city on Tuesday, May 14, at 12 o'clock, m.

Resolved, That the State convention will be expected to take into consideration the present condition of political affairs in the State, and to deliberate upon the best method of guaranteeing to the people a republican form of government.

To the primary meetings, the county conventions, and the State convention are invited all loyal citizens, without regard to past political differences, race, or color, who subscribe to the doctrine of the Republican Union party. The number of delegates to the State convention will not be limited; but the counties and the city of Baltimore shall be entitled to the same number of votes in the convention as they have representatives in both houses of the General Assembly. The members of the State central committee of the different counties will announce the day for holding the primary meetings, county conventions, or mass conventions, in the several counties, and the executive committee will fix the day for the aforesaid purposes in the city of Baltimore.

THOMAS J. WILSON, Chairman.
J. W. CLAYTON, Secretary.

OHIO.

DEmocratic, January 8.

1. Resolved, That the democracy of Ohio steadfastly adheres to the principles of the party as expounded by the fathers, and approved by experience; that in accordance with these principles we declare that the Federal Government is a government of limited powers, and that it possesses no powers but such as are expressly, or by necessary implication, delegated to it in the federal Constitution; that all other powers are reserved to the States or the people; that a strict construction of the Constitution is indispensably to the preservation of the reserved rights of the States and the people; that all grants of power to Government, whether State or federal, should be strictly construed, because all such grants abridge the natural rights of men; that the preservation of the equality and rights of the State and the rights of the people is necessary to the preservation of the Union; that the Federal Government is unfitted to legislate for, or administer the local concerns of, the States; that it would be monstrous that the local affairs of Ohio should be regulated by a Federal Congress in which she has but two Senators, and the New England States, with but a little greater population, have twice; that the tendency of the Federal Government is to usurp the reserved rights of the States and of the people; and that, therefore, a centralization of power in its hands is an ever-pending danger; that such an absorption of power would, while it lasted, be destructive of the liberties and interests of the people, and would end either in despotism or a destruction of the Union; that a national debt, besides impoverishing the people, fosters an undue increase of the powers of the Federal Government; that high protective tariffs have a like effect, sacrificing the interests of the many for the emoluments of the few, and plainly violating the equity and spirit of the Constitution; that the collection and disbursement of the enormous revenues by the Federal Government have the same tendency, besides corrupting the Government, and that, therefore, economy is essential not only to the prosperity, but also to the liberties of the people; that unequal taxation is a plain violation of justice, of which no government can safely be guilty; that to each State belongs the right to determine the qualification of its electors, and all attempts to impair this right, either by congressional legislation or constitutional amendment, are unwise and de­spotic; that the tendency of power is to steal from the many to the few, and that, therefore, the Federal Government is to enlarge its authority by usurpation, and therefore the Government needs to be watched; that another of its tendencies is to govern too much, unnecessarily and vexatiously interfering with the business and habits of the people; that the freedom of speech and of the press is essential to the existence of liberty; that no person not in the military or naval service, or where the civil courts are prevented by war or insurrection from exercising his functions, can lawfully be deprived of his liberty, or property, without due process of civil law; that the courts should always be open for the redress of grievances; that no ex post facto law should ever be made; that, in the language of the Supreme Court, "the Constitution of the United States is a law for the rulers and the people, equal in war and in peace, and covers with the shield of its protection all classes of men, at all times and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions
can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism; that the right of the people to peaceably assemble and consult upon public matters is inviolable; that the military should be held in due submission to the civil power; that while the majority, as prescribed by the Constitution, have the right to govern, the minority have indefeasible rights; and that a frequent recurrence to first principles is essential to the welfare of the State and the people.

2. That the States lately in rebellion are States in the Union, and have the right to be recognized as such by every department of the Government, and by President Lincoln, who, in the midst of war, invited them to elect members of Congress; by President Johnson, in various proclamations and official acts; by Congress, which permitted Andrew Johnson to sit in the Senate as a Senator from Tennessee, and members from Virginia, Tennessee, and Louisiana to sit in the House of Representatives after those States had seceded, and while the war was being carried on, and which further recognized them as States in the Union by the congressional apportionment act, providing for their due representation in Congress; by various tax laws, and especially by the direct tax; by the resolutions submitting amendments to the Constitution for their approval, and by various other acts and resolutions importing the same recognition, all of which were passed since the attempted secession of those States; by the judiciary of the United States, which holds federal courts in all those States, and especially by the Supreme Court, which entertains jurisdiction of cases coming from them, which it could not do were they not in the Union. That being thus in the Union, they stand on an equal footing with their sister States—States with unequal rights being a thing unknown to the Constitution; that, by the express terms of the Constitution, each State is entitled to have two Senators and a fair proportion of Representatives in Congress, and to vote in all elections of President and Vice President; that, though these rights are subject to interruption by a state of civil war, they cannot, in time of peace, be suspended, much less destroyed, without a plain declaration by the Constitution, we tender to the President and to the majority from their seats; that the exclusion of a single State might give this control, and a pretext for such an exclusion would therefore be wanting to an unscrupulous and revolutionary party.

3. That the States lately in rebellion are States in the Union, and have the right to be recognized as such by every department of the Government, and by President Lincoln, who, in the midst of war, invited them to elect members of Congress; by President Johnson, in various proclamations and official acts; by Congress, which permitted Andrew Johnson to sit in the Senate as a Senator from Tennessee, and members from Virginia, Tennessee, and Louisiana to sit in the House of Representatives after those States had seceded, and while the war was being carried on, and which further recognized them as States in the Union by the congressional apportionment act, providing for their due representation in Congress; by various tax laws, and especially by the direct tax; by the resolutions submitting amendments to the Constitution for their approval, and by various other acts and resolutions importing the same recognition, all of which were passed since the attempted secession of those States; by the judiciary of the United States, which holds federal courts in all those States, and especially by the Supreme Court, which entertains jurisdiction of cases coming from them, which it could not do were they not in the Union. That being thus in the Union, they stand on an equal footing with their sister States—States with unequal rights being a thing unknown to the Constitution; that, by the express terms of the Constitution, each State is entitled to have two Senators and a fair proportion of Representatives in Congress, and to vote in all elections of President and Vice President; that, though these rights are subject to interruption by a state of civil war, they cannot, in time of peace, be suspended, much less destroyed, without a plain declaration by the Constitution, we tender to the President and to the majority from their seats; that the exclusion of a single State might give this control, and a pretext for such an exclusion would therefore be wanting to an unscrupulous and revolutionary party.

4. That the people, and especially those of the agricultural States, have suffered too long the exactions of high protective tariffs, and as the representatives of an agricultural and laboring population, we demand that their substance shall no longer be extorted from them in order to fill the pockets of eastern monopolists.

5. That unequal taxation is contrary to the first principles of justice and sound policy, and we call upon our Government, Federal and State, to use all necessary constitutional means to remedy this evil.

6. That the radical majority in the so-called Congress have proved themselves to be in favor of negro suffrage, by forcing it upon the people of the District of Columbia against their will, solemnly expressed at the polls; by forcing it upon the people of all the Territories, and by their various devices to coerce the people of the South to adopt it; that we are opposed to negro suffrage, believing it would be productive of evil to both whites and blacks, and tend to produce a disastrous conflict of races.

7. That for their efforts to uphold the Constitution, we tender to the President and to the majority of the judges of the Supreme Court of the United States our hearty thanks.

8. That we are in favor of a Democratic convention of delegates from all the States, to be held at such time and place as may be agreed upon, and that the State central committee be authorized to concur with other proper committees in fixing time and place, and that we prefer Louisville, Kentucky, as the place.

9. That the Democratic newspapers of Ohio deserve our earnest and liberal support, and that an early and thorough organization of the party is indispensable.
RESOLUTIONS OF CONVENTIONS.

of the United States over the army of traitors, who sought to destroy the best government ever known to man, thereby saving us and our posterity the blessings and privileges of our republican institutions, and a solution of the heretofore doubtful problem that man is capable of self-government. "We hold these truths to be self-evident:" 1. That all men are created equal, endowed with certain inalienable rights," and therefore the law should afford equal protection to all in the exercise of these rights, and, so far as it can, insure perfect equality under the law. 2. That a State or a nation should be governed, controlled, and directed by those who have saved it in times of peril, and who seek to preserve it with friendly bands from foes and dangers, external and internal. 3. That a war is for the public safety sometimes renders it necessary that those who have sought resolutely to overthrow a government should not hastily be restored to the privileges of which they have deprived themselves by their crime of treason; certainly not until they have shown evidence of sincere repentance, and a disposition as energetically to support as they have in times past sought to destroy. 4. That rebellion is disfranchisement, and armed attempts to overthrow a government not hastily be restored to the privileges of which they have deprived themselves by their crime of treason; certainly not until they have shown evidence of sincere repentance, and a disposition as energetically to support as they have in times past sought to destroy. 5. That lawless violence, reckless disregard of the rights of person and property, murder, assassination, arson, and kindred crimes, must be put down by the strong arm of power, and be made to feel that law is indeed a terror to evildoers. 6. Therefore, in accordance with the above principles, we fully indorse the policy and action of the General Assembly of the State of Tennessee, in restricting the elective franchise to those who are not hostile to the Government, in extending it to those who proved their loyalty by imperiling their lives, and who need this privilege for their own protection, and in establishing a military organization which shall give necessary physical support to the moral power of the State government, becoming a salutary terror to evildoers and a cheerful hope to those who do well. 7. That the "privileges and immunities" guaranteed under the Constitution of our Union to the loyal from other States, and the pledge of freedom and equality in the declaration of American Independence, shall be living truths and practical maxims in Tennessee, for the protection of "life, liberty, and the pursuit of happiness." 8. That we have entire confidence in the integrity, wisdom, and ability of the Republican Union majority of Congress, and deem it signaliy fortunate that they, in whom alone the power resides to restore, preserve, and govern the country, have shown themselves so eminently fitted for these high duties, that no State should be admitted to representation in Congress without adopting the constitutional amendment.

9. That the Republican Union party of Tennessee are in favor of free speech and free discussion, and to this end we invite our friends from other States to come among us, and discuss the great issues now before the people, and we pledge the Republican Union party of Tennessee to tolerate all legitimate discussion, and at the same time claiming equal privileges on our part; and that any interference to prevent this will be regarded as an unwarranted act, and resisted to the last extremity. 10. That we honor the firmness, courage, and wisdom which have characterized the administration of our Chief Magistrate, the Hon. Wm. G. Brownlow, and while we sympathize with him in his bodily suffering, we admire the healthy mind, conscious of itself of rectitude, which bears with like equanimity the throes of pain and the perilous cares of State; and that we declare him the unanimous choice of the loyal people of Tennessee for our next Governor.

11. That we cover our faces with shame when we contemplate the disgrace brought upon our beloved State by the detection and degeneracy of her unprincipled adopted son, who by the bullet of an assassin has ascended to the Chief Magistracy of the nation; and we shall cordially endorse any action of Congress which shall legitimately deprive him of continued power to disturb the peace of the country. "Conservative," April 17, 1867.

We, the Conservative men of Tennessee, adopt the following platform of principles:

1. We are in favor of the Union of the States under the Constitution of the United States.
2. We are the friends of peace and civil law, and that these great objects can be best promoted by legislation recognizing equal and exact justice to all—exclusive privileges to none.
3. We are in favor of the immediate restoration of our disfranchised fellow-citizens to all rights, privileges, and immunities of full and complete citizenship.
4. That we colored fellow-citizens, being now citizens of the United States and citizens of the State of Tennessee and voters of this State, are entitled to all the rights and privileges of citizens under the laws and Constitution of the United States and of the State of Tennessee.
5. We are opposed to the repudiation of the national debt, and are in favor of equal taxation as the proper method of paying the same.
6. That the establishment of a National army in our State, in time of peace, is a flagrant and dangerous encroachment upon the rights and liberties of the citizen, heavily oppressive to the tax-payer, and evidently designed to overthrow the voters at the ballot-box.
7. We cordially approve of the patriotic efforts of Andrew Johnson, President of the United States, in defending the Constitution, preserving the Union of the States, and maintaining the supremacy of the laws.

Alabama.

RESOLUTIONS OF THE GRAND COUNCIL OF THE UNION LEAGUE, APRIL, 1867.

Resolved, That the Alabama Grand Council of the Union League of America return thanks to the Congress of the United States for its patri-
250 POLITICAL MANUAL.

II. That we arraign the unprincipled and corrupt demagogues who for so many years held every office and exercised despotic control over the legislation as the sole authors of the present deplorable condition of the State and its people. To convict them of the folly and crime of having brought upon the people of the State their present woes, let facts be stated.

1. They appropriated to their own use and squandered the grants of money and lands made to the State by the National Government for educational purposes, and then refused to provide free schools or make sufficient provision for the education of the youth of the State.

2. They in like manner appropriated to their own use and otherwise squandered the grants of land and all other grants of land made by the National Government to the State for internal improvements and other purposes; and refusing to make any provision therefore, the State is left to this day without a completed railroad or other work of internal improvement within her borders.

3. They issued the bonds of the State as a pretended basis for a banking capital, and having negotiated the bonds and appropriated the proceeds to their own use, the State is left to pay their bonds, with years of accumulated interest, amounting in the aggregate to millions of dollars.

4. In a time of profound peace, and when the people of the State were enjoying a degree of prosperity and happiness unparalleled in any country on the globe, these unscrupulous and reckless demagogues, actuated by none but the most selfish purposes and wicked ambition, with a design of founding a government based on human slavery, and governed and controlled by an aristocracy of office-holders and slave-owners, and in defiance of the expressed will of the people at the ballot-box, and in violation of their own pledges, passed an ordinance of secession, proclaimed the State out of the Union, made war upon the National Government, and by the use of vigorous conscription laws and a military rule, the despotism of which is without parallel in the history of the world, they forced an unwilling and loyal people, who loved their country and its flag, to join in an effort to destroy the Government that had showered blessings on them and their fathers.

Having inaugurated the rebellion for these hateful purposes, they secured to themselves all the civil and military offices of their insurrectionary government, and they used the power thus usurped over the lives, liberty, and property of the people to coerce them to join in their treason and rebellion, and wickedly and wantonly protracted the struggle until one-third of their victims were in their graves, and the property of all impressed, wasted away, or destroyed.

6. Failing to destroy the Republic and rob the people of their liberty by force of arms, they returned and at once demanded to be restored to the offices and control of the State, and speedily possessed themselves of all the civil and military offices of their insurrectionary government, and they used the power thus usurped over the lives, liberty, and property of the people to coerce them to join in their treason and rebellion, and wickedly and wantonly protracted the struggle until one-third of their victims were in their graves, and the property of all impressed, wasted away, or destroyed.

The people of the State of Arkansas, willing to associate together for the purpose of cooperation with the National Union Republican party of the nation in securing and maintaining equal legal and political rights to all the citizens of the Republic and restore the State to the political relations in the Union, now here in State convention assembled, do proclaim and declare the following declaration of principles on which they have unanimously agreed:

I. That the people of the State were suffering a degree of oppression in affording to all the people an opportunity, on fair terms, to re-organize the government of the State, to put her destinies into the hands of true Union men, and to unite her again to her sister States by the only enduring bond of unswerving loyalty.

2. That we hail with joy the recurrence to the fundamental principle on which our forefathers achieved their independence—“that all men are created equal,” that we welcome its renewed fundamental principle on which our forefathers established and maintaining for the future the rights and liberties of the State, to put her destinies into the hands of true Union men, and to unite her again to her sister States by the only enduring bond of unswerving loyalty.

3. That while we believe that participation in rebellion is the highest crime known to the law, and that those guilty of it hold their continued existence solely by the clemency of an outraged but merciful Government, we are nevertheless willing to imitate that Government in forgiveness and remission of equal legal and political rights to all the citizens of the Republic and restore the State to its political relations in the Union.

4. That we consider willingness to elevate to power the men who preserved unswerving adherence to the Government during the war as the best test of sincerity in professions for the future.

5. That if the pacification now proposed by Congress be not accepted in good faith by those who staked and forfeited their lives, their fortunes, and their sacred honor” in rebellion, it will be the duty of Congress to enforce that future by the confiscation of the lands, at least, of such a stiff-necked and rebellious people.

6. That the assertion that there are not enough intelligent loyal men in Alabama to administer the government is false in fact, and mainly proceed from the use of vigorous conscription laws and a military rule, the despotism of which is without parallel in the history of the world, they forced an unwilling and loyal people, who loved their country and its flag, to join in an effort to destroy the Government that had showered blessings on them and their fathers.

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RESOLUTIONS OF CONVENTIONS.

Having assembled in the city of Raleigh, on the 27th of March, 1867, in conformity with a timely and patriotic call, reflecting the sentiments

North Carolina.

Republican, March 27, 1867.

We, the people of the State of North Carolina,

recognize the power and right of the National Government to determine the method and apply the means of reconstructing the rebel States, and of providing lawful governments for the same, and to willfully and unjustly accept the measures adopted, or which may hereafter be necessarily prescribed by Congress for a full, perfect, and final reconstruction of said States; and to the end that the State may be admitted to its wonted position in the Union and representation in Congress; that the liberty and rights of every citizen may be secured and sacredly guarded and protected under an honest, competent, and loyal State government; that the credit of the State may be restored, and econony in the public expenditures secured; that the construction of roads and other internal improvements so necessary to the prosperity of the State may be commenced and vigorously prosecuted; that an enlightened and judicious system of free common schools, providing for the education of all the children of the State, may be inaugurated; that emigration and capital from every quarter may be invited and induced to enter our State, and that peace, security, and prosperity may be restored to the State and all its people, we declare that we are in favor of immediate action under and in conformity to the acts of Congress, and we hereby tender to the major general command-
of the loyal men of the State, and believing the time is at hand when an open and fearless expression of sentiment, opinion, and purpose is urgently demanded. Therefore,

1. Resolved, That in view of our present political condition, our relations to the National Government, and the people of all sections of the country, we do this day, with profound satisfaction, unfurl the brilliant and glorious banner of the Republican party, and earnestly appeal to every true and patriotic man in the State to rally to its support.

The splendid and patriotic record made by this great political organization, in standing by the General Government with an inflexible resolution, in carrying forward profound measures of statemanship to a successful issue, and the powerful aid given by it in finally overthrowing and prostrating the most gigantic rebellion of ancient or modern times, should command the respect and challenge the admiration of every candid man.

2. That the American Congress is eminently entitled to the profound thanks of the whole country for its persevering, persistent, and heroic devotion to the great principles of human rights as enunciated in the Declaration of Independence; that in the name of the patriotic people of this State we feel warranted in cordially asserting to and accepting the reconstruction plan recently and finally adopted by that body; and to the end that peace and order may be permanently resumed and encouraged, we pledge ourselves to use every fair and legitimate means to influence public sentiment to the nearest possible approach to unanimity on this subject.

3. That we rejoice that the dogma, long propagated, of the right of peaceable secession under the Constitution, has been forever overthrown by the heroic uprising of the American people, in crushing out the late rebellion by force of arms, and that the doctrine of the supremacy of the General Government has been established, and that the paramount allegiance of the citizen has been acknowledged as due to the United States.

4. That we sincerely exult in the fact that as a nation we are now absolutely a nation of free men, and that the sun in all his course over our wide-spread country no longer shines upon the brow of a slave. Without reservation, we heartily invoke the great measures of civil rights and impartial enfranchisement, without any property qualification, conferred without distinction of color, and that we are ready to unite in the early practical attainment of these indubitable privileges. Although the mortal remains of Abraham Lincoln now rest silently beneath the soil of his adopted State, yet his voice still rings like a clarion through the land, earnestly summoning every American citizen to the support of the great party of liberty and emancipation.

5. That as the most potent and efficient means by which the South can speedily regain her lost prosperity, we earnestly advocate the spreading of knowledge and education among all men, and that to the attainment of this great end, we demand and shall persistently and firmly insist upon the absolute right of free discussion and free speech on all subjects of public interest.

6. That we join in an earnest wish for the maintenance, unmarred and unimpaired, of the public credit and plighted faith of the nation.

7. That in the maintenance of the position taken and the principles this day avowed, we earnestly invite the influence and cooperation of men of all political persuasions, who regard and cordially support the recent action of Congress as a solution of our present political difficulties; that we deplore partisan violence, and desire peace and good will toward all men; and if in an open and fearless effort, which we propose to make on every suitable occasion, to persuade and convince the people that our highest duty and truest interest are to be subserved by maintaining the principles of the Republican party, an earnest interest should be awakened, it will be from no other cause than a rigid adherence to what we regard as a sacred right and a solemn public duty.

South Carolina,
OF CHARLESTON REPUBLICANS, MARCH 22, 1867.

1. Resolved, That we give our cordial and entire sanction to the action of Congress for the restoration of the Union, and to the wise and just principles of the Republican party.

2. That in order to make the labors of all our loyal fellow-citizens more effectual for carrying out the provisions of Congress for the restoration of law and order in our State, as well as for the peace and prosperity of our entire country, we do form an association to be known as the "Union Republican party of South Carolina."

3. That we pledge our sacred honor, our fortunes, and our lives to serve our country, to preserve her institutions, and especially to aid her in keeping inviolate the national faith, which has been so sacredly pledged to the payment of the national debt incurred to save the liberties of the country and to suppress rebellion, and that the people will not suffer this faith to be violated or impaired; but all debts incurred to support the rebellion, as they were unlawful, void, and of no obligation, shall never be assumed by the United States, nor shall South Carolina be permitted to pay any debt whatever which was contracted to aid the rebellion in any form.

4. That the nation owes to the brave men, white and colored, of our army and navy a debt ofhosting gratitude for their heroic services in defence of the Constitution and the Union, and that, while we cherish with a tender affection the memories of the fallen, we pledge to their widows and orphans the nation's care and protection.

5. That as republican institutions cannot be preserved unless intelligence be generally diffused among all classes, we will demand of our legislature a uniform system of common schools, which shall be open to all, without distinction of race, color, or previous condition; such system to be supported by a general tax upon all kinds of property.

6. That we will favor a liberal system of public improvements, such as railroads, canals, and other works, and also such a system of awarding contracts for the same as will give all our fol-
low citizens an equal and fair chance to share in them.
7. That we will also insist on such modification of the laws of the State as will do away with imprisonment for debt, except for fraud, and imprisonment of witnesses, except for willful absence; and especially to abolish, entirely and forever, the barbarous custom of corporal punishment for crime or any other cause.
8. That, as large land monopolies tend only to make the rich richer and the poor poorer, and are ruinous to the agricultural, commercial, and social interests of the State, the legislature should offer every possible inducement for the division and sale of unoccupied lands among the poorer classes and as an encouragement to emigrants to settle in our State.
9. That, as the law of ejectment and distraint should be so modified as to protect equally the landlord and the tenant.
10. That provision should be made for the exemption of the poor man's homestead.
11. That the interests of the State demand a revision of the entire code of laws and the reorganization of the courts.
12. That the interests not only of the State, but of the whole country, demand every possible guaranty for the perpetuity of all the rights conferred upon the newly enfranchised portion of our fellow-citizens, and that, in the use of the sacred right of the elective franchise, we will seek to elevate to offices of trust and honor only those who are truly loyal, honest, and capable, irrespective of race, color, or previous condition.
13. The consideration of justice and humanity to the helpless poor, irrespective of race, color, or previous condition.
14. That we recognize as cardinal points in the policy of the Republican party of the United States the following propositions: first, equal protection to all men before the courts, and an equal political organization is necessary to induce foreign capital to seek investment in the State; second, a system of common-school education, which shall give to all classes free schools and a free and equal participation in all its benefits; third, a more just and equitable system of taxation, which shall apportion taxes to property, and require all to pay in proportion to their ability; fourth, a modification of the usury laws sufficient to induce foreign capital to seek investment in the State; fifth, encouragement to internal improvements and every possible inducement to immigration.
15. Belying upon Divine Providence for wisdom in our councils, efficiency in our action, harmony among ourselves, with malice toward none and charity to all, we pledge our earnest and persistent efforts to carry out in good faith, without regard to former political opinions or action, induced by such convictions. We invite them to join us, and pledge them a warm welcome to our ranks, and a full and free participation in all the advantages of our organization.
16. That believing the principles enunciated in the noble utterances of the founders of our Constitution, we recognize a true appreciation of the great fact that parties or governments, to be prosperous or successful, must be founded or administered on the basis of exact and equal justice to all men; and we accept as our guides the great principles enunciated by them, first and most important of which is the great and glorious truth that all men are created free and equal, are endowed with certain inalienable rights, and that among these are life, liberty, and the pursuit of happiness; and we solemnly pledge, on the part of this convention and the party it represents, a strict adherence to these sentiments, which, for the first time in the history of Virginia, a political organization is in a position to adopt in spirit and action as its own.
17. That believing the principles enunciated in the foregoing resolutions can be objectionable to no man who really loves the Union, and that they are the only true principles which can give to Virginia an early restoration to the Union.
and enduring peace and prosperity, we solemnly pledge ourselves to support no man for an elective office who fails to join us in their adoption and enforcement, who fails to identify himself with the Union Republican party in spirit and action, or hesitates to connect himself openly and public with its platform as adopted here to-day.

That we recognize the great fact that the interests of the laboring classes of the State are identical, and that, without regard to color, we desire to elevate them to their true position; that the exaltation of the poor and humble, the restraint of the rapacious and the arrogant, the lifting up of the poor and degraded without humiliation or degradation to any; that the attainment of the greatest amount of happiness and prosperity to the greatest number is our warmest desire, and shall have our earnest and persistent efforts in their accomplishment; that while we desire to see all men protected in full and equal proportions, and every political right secured to the colored man that is enjoyed by any other class of citizens, we do not desire to deprive the laboring white men of any rights or privileges which they now enjoy, but do propose a general Government; but that, by compact, unive occlusive or final

Kentucky and Virginia Resolutions.

Kentucky Resolutions, November, 1798.

Resolved, That the several States composing the United States of America are not united on the principle of unlimited submission to their General Government; but that, by compact, under the style and title of a Constitution for the United States and of Amendments thereto, they constitute a general Government for special purposes, delegated to that Government certain definite powers, reserving to each State to itself the residuary mass of right to their own self-government; and that whenever the General Government assumes undelegated powers, its acts are unauthoritative, and of no force. That to this compact each State acceded as a State, and is an integral part, its co-States forming as to itself the other party: That the Government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions, as of the mode and measure of redress.

That the Constitution of the United States having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, piracy and felonies committed on the high seas, and offenses against the laws of nations, and no other crimes whatever, and it being true as a general principle, and one of the amendments to the Constitution having also declared, "that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people;" therefore, also the same act of Congress, passed on the 14th day of July, 1798, and entitled, "An act in addition to the act entitled, 'an act for the punishment of certain crimes against the United States," as also the act passed by them on the 27th day of June, 1798, entitled "An act to punish frauds committed on the Bank of the United States," (and all other their acts which assumed to create, define, or punish crimes other than those enumerated in the Constitution,) are altogether void and of no force, and that the power to create, define, and punish such other crimes is reserved, as a part of the Constitution and laws, and exclusively, to the respective States, each within its own territory.

That it is true as a general principle, and is also expressly declared by one of the amendments to the Constitution, that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people; and that no power over the freedom of religion, freedom of speech, or freedom of the press, being delegated to the United States by the Constitution, nor prohibited by it to the States, all lawful powers respecting the same did of right remain, and were reserved, to the States or to the people: That thus was manifested their determination to retain to themselves the right of judging how far the licentiousness of speech and of the press may be abridged without lessening their useful freedom, and how far those abuses which cannot be separated from their use should be tolerated rather than be destroyed; and thus also, they guarded against all abridgment by the United States of the freedom of religious opinions and exercises, and retained to themselves the right of protecting the same. But by a law passed on the general demand of its citizens, had already protected them from all human restraint or interference: And that, in addition to this general principle and express declaration, another and more special provision has been made by one of the amendments to the Constitution, which expressly declares that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press, insomuch that whatever violates either throws down the sanctuary which covers the others, and that libels, falsehoods, and defamation, equally with heresy and false religion, arc withheld from the cognizance of federal tribunals: That therefore the act of the Congress of the United States, passed on the 15th day of July, 1798, entitled "An act in addition to the act for the punishment of certain crimes against the United States," which does abridge the freedom of the press, is not law, but is altogether void and of no effect.

4. That alien friends are under the jurisdiction and protection of the laws of the State wherein they are; that no power over them has been delegated to the United States nor prohibited to the individual States distinct from their power over citizens; and it being true, as a general principle, and one of the amendments to the Constitution having also declared that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States,
are reserved to the States respectively or to the people, the act of the Congress of the United States, passed on the 22d day of June 1798, entitled "An act concerning aliens," which assumes power over alien friends not delegated by the Constitution, is not law, but is altogether void and of no force.

5. That in addition to the general principle as well as the express declaration that powers not delegated are reserved, another and more special provision inserted in the Constitution from abundance has declared "that the migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; and that the migration of alien friends described as the subject of the said act concerning aliens; that a provision against prohibiting their migration is a provision against all acts equivalent thereto, or it would be nugatory; that to remove them when migrated is equivalent to a prohibition of their migration, and is therefore contrary to the said provision of the Constitution and void.

6. That the imprisonment of a person under the protection of the laws of this Commonwealth on his failure to obey the simple order of the President to depart out of the United States, as is undertaken by the said act, entitled "an act concerning aliens," is contrary to the Constitution, one amendment to which has provided, that "no person shall be deprived of liberty without due process of law," and that another having provided "that in all criminal prosecutions the accused shall enjoy the right to a public trial by an impartial jury, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense," the same act undertaking to authorize the President to remove a person out of the United States who is under the protection of the law, on his own suspicion, without accusation, without jury, without public trial, without confrontation of the witnesses against him, without having witnesses in his favor, without defense, without counsel, is contrary to these provisions both of the Constitution, is therefore not law, but utterly void and of no force. That transferring the power of judging any person, who is under the protection of the laws, from the courts to the President of the United States, as is undertaken by the same act concerning aliens, is against the article of the Constitution which provides that "the judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish;" and that the said act is void for that reason also; and it is further to be noted, that in the transfer of judicial power is to that magistrate of the General Government who already possesses all the executive, and a qualified negative in all the legislative powers.

7. That the construction applied by the General Government (as is evinced by sundry of their proceedings) to those parts of the Constitution of the United States which delegates to Congress a power to lay and collect taxes, duties, imposts, and excises; to pay the debts, and provide for the common defense and general welfare of the United States, and to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States, or any department thereof, goes to the destruction of all the limits prescribed to their power by the Constitution. That words meant by that construction to be subsidiary only to the execution of the limited powers ought not to be so construed as themselves to give unlimited powers, nor a part so to be taken as to give the whole of the instrument: That the proceedings of the General Government under color of these articles will be a fit and necessary subject for revival and correttion at the time of general revision, by those specified in the preceding resolutions call for immediate redress.

8. That the preceding resolutions be transmitted to the Senators and Representatives in Congress from this Commonwealth, who are hereby enjoined to present the same to their respective houses, and to use their best endeavors to procure, at the next session of Congress, a repeal of the aforesaid unconstitutional and obnoxious acts.

9. Lastly, That the Governor of this Commonwealth be, and hereby is, authorized and requested to communicate the preceding resolutions to the legislatures of the several States, to assure them that this Commonwealth considers union for specified national purposes, and particularly for those specified in their late federal compact, to be friendly to the peace, happiness, and prosperity of all the States; that faithful to that compact, according to the plain intent and meaning in which it was understood and agreed to by the several parties, it is sincerely anxious for its preservation; that it does also believe, that to take from the States all the powers of self-government, and transfer them to a general and consolidated government, without regard to the special obligations and reservations solemnly agreed to in that compact, is not for the peace, happiness, or prosperity of the States: And that therefore this Commonwealth is determined, as it doubts not its co-States are, tamely to submit to undelegated and consequently unlimited powers of men on men earth; that if the acts before specified should stand, these conclusions would flow from them; that the General Government may place any act they think proper on the list of crimes, and punish it themselves, whether enumerated or not enumerated by the Constitution as cognizable by them; that they may transfer its cognizance to the President or any other person, who may himself be the accuser, counsel, judge, and jury, whose suspicions may be the evidence, his order the sentence, his officer the executioner, and his breast the seal of the transaction; that a very numerous and valuable description of the inhabitants of these States, being by this precedent reduced as outlawers to the absolute dominion of one man, and the barrier of the Constitution thus swept away from us all, no rampart now remains against the passions and the power of a majority of Congress to protect from a like exportation or other more grievous punishment the minority
of the same body, the legislatures, judges, governors, and counselors of the States, nor their other peaceable inhabitants who may venture to re-claim the constitutional rights and liberties of the States and people, or who for other causes, good or bad, may be such as the President, or be marked by the suspicions of the President, or be thought dangerous to his or their elections or other interests, public or personal; that the friends of our choice, and indeed been selected as the safest subject of a first experiment; but the citizen will soon follow, or rather has already followed; for already has a sedition act marked him as its prey; that these and successive acts of the same character, unless arrested on the threshold, may tend to drive these States into revolution and blood and will furnish new calamities against republican governments, and new pretexts for those who wish it to be believed that man cannot be governed but by a rod of iron: that it would be a dangerous delusion, were a confidence in the men of our choice allowed; for already has a sedition act marked him as its prey; that the Constitution has been wise in fixing limits to the govern-ment, that our Constitution, as resulting from the compact which constitute the only basis of that Union, and not in confidence; it is jealousy and not confidence which prescribes limited constitutions to bind down those whom we are obliged to trust with power: that our Constitution has accordingly fixed the limits to which and no further our confidence may go; and let the honest advocate of confidence read the alien and sedition acts, and say if the Constitution has not been wise in fixing limits to the govern-ment with power, then let no more be heard of confidence in destroying those limits? Let him say what the Government is if it be not a tyranny, which the men of our choice have conferred on the President, and that the President of our choice has assented to and accepted over the friendly strang-ers, to whom the mild spirit of our country and its laws had pledged hospitality and protection: that the men of our choice have more respected the bare suspicions of the President than the solid rights of innocence, the claims of justification, the sacred force of truth, and the forms and substance of law and justice. In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution. That this Commonwealth does therefore call on its co-States for an expression of their sentiments on the acts concerning aliens and for the punish-ment of certain crimes hereinafter specified, plainly declaring whether these acts are or are not authorized by the federal compact? And it doubts not that their sense will be so an-nounced as to prove their attachment unaltered to limited government, whether general or par-ticular, and that the rights and liberties of their co-States will be exposed to no dangers by re-maining embarked on a common bottom with their own: That they will concur with this Commonwealth in considering the said acts as so palpably against the Constitution, as to amount to an undisguised declaration that the compact is not meant to be the measure of the powers of the General Government, but that it will proceed in the exercise over these States of all powers whatsoever: That they will view this as seizing the rights of the States, and consolidating them in the hands of the General Government with a power assumed to bind the States, (not merely in cases made federal,) but in all cases whatsoever, by laws made, not with their consent, but by others against their consent: That this would be to surrender the form of government we have chosen, and to live under one deriving its powers from its own will, and not from our authority; and that the co-States, in declaring these acts void and of no force, and will each unite with this Commonwealth in requesting their repeal at the next session of Congress.

Virginia Resolutions, December, 1798.

Resolved, That the General Assembly of Vir-ginia doth unequivocally express a firm resolu-tion to maintain and defend the Constitution of the United States and the constitution of this State against every aggression, either foreign or domestic; and that they will support the Gov-ernment of the United States in all measures warranted by the former.

2. That this Assembly most solemnly declares a warm attachment to the Union of the States, to maintain which it pledges its powers; and that, for this end, it is their duty so watch over and oppose every infraction of those principles which constitute the Union, because a faithful observance of them can alone secure its existence and the public happiness.

3. That this Assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instru­ment constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said comp­act, the States, who are parties thereto, have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for main­taining, within their respective limits, the au­thorities, rights, and liberties appertaining to them.

4. That the General Assembly doth also ex­press its deep regret that a spirit has, in sundry instances, been manifested by the Federal Gov­ernment to enlarge its powers by forced construc­tions of the constitutional charter which defines them; and that indications have appeared of a design to expound certain general phrases (which, having been copied from the very limited grant of powers in the former Articles of Confederation, were the less liable to be misconstrued) so as to destroy the meaning and effect of the particular enumeration which necessarily explains and lim­its the general phrases, and so as to consolidate the States, by degrees, into one sovereignty, the obvious tendency and inevitable result of which would be to transform the present republican system of the United States into an absolute, or, at best, a mixed monarchy.

5. That the General Assembly doth particularly protest against the palpable and alarming infrac­tions of the Constitution in the two late
cases of the "alien and sedition acts," passed at the last session of Congress; the first of which exercises a power nowhere delegated to the Federal Government, and which, by uniting legislative and judicial powers to those of executive, subverts the general principles of free government, as well as the particular organization and positive provisions of the Federal Constitution; and the other of which acts exercises, in like manner, a power not delegated by the Constitution, but, on the contrary, expressly and positively forbidden by one of the amendments thereof—a power which, more than any other, ought to produce universal alarm, because it is levelled against the right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right.

6. That this State, having by its convention, which ratified the Federal Constitution, expressly declared that, among other essential rights, "the liberty of conscience and the press cannot be cancelled, abridged, restrained, or modified, by any authority in the United States," and from its extreme anxiety to guard these rights from every possible attack of sophistry and ambition, having, with other States, recommended an amendment for that purpose, which amendment was, in due time, annexed to the Constitution—it would mark a reproachful inconsistency, and criminal degeneracy if an indifference were now shown to the most palpable violation of one of the rights thus declared and secured, and to the establishment of a precedent which may be fatal to the other.

7. That the good people of this Commonwealth, having ever felt, and continuing to feel, the most sincere affection for their brethren of the other States, the trust and anxiety for establishing and perpetuating the union of all, and the most scrupulous fidelity to that Constitution, which is the pledge of mutual friendship and the instrument of mutual happiness, the General Assembly doth solemnly appeal to the like dispositions in the other States, in confidence that they will concur with this Commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional, and that the necessary and proper measures will be taken by each for co-operating with this State in maintaining unimpaired the authorities, rights, and liberties reserved to the States respectively, or to the people.

8. That the Governor be desired to transmit a copy of the foregoing resolutions to the executive authority of each of the other States, with a request that the same may be communicated to the legislature thereof, and that a copy be furnished to each of the Senators and Representatives representing this State in the Congress of the United States.

ELECTIVE FRANCHISE IN THE STATES.

In Tennessee.


A law was also passed containing this provision:

"That in all State, district, county, and all other elections, such aliens as have resided more than six months in the State of Tennessee, shall have the right of the elective franchise; Provided, That such persons shall have previously declared their intention to become citizens of the United States, and that they shall not have participated in the late rebellion."

In Ohio.

1867, April 6—This joint resolution passed:

A RESOLUTION

Relative to an amendment of the constitution, providing for the extension of the elective franchise:

Resolved, By the General Assembly of the State of Ohio, three-fifths of the members elected to each house agreeing therein, that it be and is hereby proposed to the electors of this State, to vote at the next annual October election upon the approval or rejection of the following amendment as a substitute for the first section of the fifth article of the constitution of this State, to wit: "Every male citizen of the United States of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county, township, or ward in which he resides such time as may be provided by law, except such persons as have borne arms in support of any insurrection or rebellion against the Government of the United States, or have fled from their places of residence to avoid being drafted into the military service thereof, or have deserted the military or naval service of said Government in time of war, and
had not subsequently been honorably discharged from the same, shall have the qualifications of an elector, and be entitled to vote at all elections.

In the Senate, the vote was yeas 23, nays 11, strictly party vote except that Mr. Combs (Republican) voted in the negative.

In Wisconsin.

Both houses have agreed to proposing an amendment to the constitution so as to extend suffrage to all persons over the age of twenty-one years. The vote in the Senate was 18 to 9, not voting.

In New Jersey.

A proposition to strike the word “white” from the constitution was defeated in the house 20, nays 38, as follows:


In New York.

The Republican State convention to nominate delegates at large for a constitutional convention unanimously adopted this resolution:

Resolved, That the delegates to the coming constitutional convention, this day appointed, be instructed to support every honorable amendment to the constitution giving to the black man the same rights of ballot as to the white man.

In Kansas.

A proposition to extend the elective franchise to women is pending.

A PROPOSED SUBSTITUTE FOR THE CONSTITUTIONAL AMENDMENT.

In February, 1867, an effort was made to prepare a constitutional amendment to be substituted for that proposed by Congress. The plan given below was published, and was declared to be approved by President Johnson, and submitted to the Legislature of North Carolina, but was not favorably received:

Whereas it has been announced by persons high in authority that propositions from the southern States having in view the adjustment of our present political troubles would be received and considered, &c. Therefore,

Resolved by the Legislature of the State of—

That the Congress of the United States be requested to propose to the legislatures of the several States the following amendment to the Constitution of the United States:

ARTICLES 14, SEC. 1. No State under the Constitution has a right of its own will to renounce its place in or to withdraw from the Union; nor has the Federal Government any right to eject a State from the Union, or to deprive it of its equal suffrage in the Senate or of representation in the House of Representatives. The Union under the Constitution shall be perpetual.

ARTICLES 14, SEC. 2. The public debt of the United States authorized by law, shall ever be held sacred and inviolate; 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 Government or authority of the United States.

ARTICLES 14, SEC. 3. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States in which they reside; and the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States. No State shall 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.

ARTICLES 14, SEC. 4. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when any State shall, on account of race or color or previous condition of servitude, deny the exercise of the franchise at any election for the choice of officers for President and Vice President of the United States, Representatives in Congress, members of the legislature, and other officers elected by the people, to any of the male inhabitants of such State being twenty-one years of age and citizens of the United States, then the entire class of persons so excluded from the exercise of the elective franchise shall not be counted in the basis of representation.

And whereas, &c., be it further resolved by the Legislature of— That the following article shall be adopted as an amendment to, and become a part of the constitution of the State of—

ARTICLE. Every male citizen who has resided in this State for one year, and in the county in which he offers to vote six months immediately preceding the day of election, and who can read the Declaration of Independence and the Constitution of the United States in the English language and write his name; or who may be the owner of two hundred and fifty dollars' worth of taxable property, shall be entitled to vote at all elections for governor of the State, members of the legislature and all other officers elected by the people of the State; Provided that no person by reason of this article shall be excluded from voting who has heretofore exercised the elective vote in the State.
franchise under the constitution or laws of this State, or who, at the time of the adoption of this amendment, may be entitled to vote under said constitution and laws.

THE ELECTIONS OF 1867.

In New Hampshire, the vote stood: Governor—Harrison, Republican, 56,776; Sinclair, Democrat, 32,733. Republican majority in Legislature, about 75.


In Rhode Island, the vote stood: Governor—Burnside, Republican, 7,551; Pierce, Democrat, 3,330. The legislature is largely Republican.

In Maryland, the vote on calling a convention to revise the constitution of the State, was: For a convention, 34,361; against, 24,136.

In Maryland, a new registry law was passed, directing the registering of "all white males over twenty-one, not criminals or lunatics, and possessing sufficient residence. The legislature also passed an act authorizing and directing the Comptroller of the State to examine, adjust, and pay all claims presented to him for settlement by the officers and members, and others of the General Assembly of 1861. It rejected a bill to authorize colored persons to testify in the courts. It provided for the appointment of a commissioner of slaves, to be paid by the State, or who, at the time of the adoption of this amendment, may be entitled to vote under said constitution and laws.

CONSTITUTIONAL CONVENTIONS.

A convention has recently been chosen in New York by the votes of all persons qualified to vote for members of the Assembly; but no person was allowed to vote who could not, if challenged, take and subscribe this oath:

"(A. B.) do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States, or who, at the time of the adoption of this amendment, may be entitled to vote under said constitution and laws.

POLITICAL MISCELLANY.

vote for members of the Assembly; but no person was allowed to vote who could not, if challenged, take and subscribe this oath:

"(A. B.) do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States, or who, at the time of the adoption of this amendment, may be entitled to vote under said constitution and laws.

Statement of the Public Debt of the United States on the 1st of April, 1867.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Debt bearing coin interest Interest</td>
<td>$1,499,381,591</td>
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<tr>
<td>Matured debt not presented for payment</td>
<td>29,217,491</td>
</tr>
<tr>
<td>Debt bearing no interest Interest</td>
<td></td>
</tr>
<tr>
<td>Gold certificates of deposit</td>
<td></td>
</tr>
<tr>
<td>Total debt</td>
<td>$2,663,713,371</td>
</tr>
<tr>
<td>Amount in Treasury, Coin</td>
<td>109,994,477</td>
</tr>
<tr>
<td>*</td>
<td>109,994,477</td>
</tr>
<tr>
<td>Amount of Debt, less Cash in the Treasury</td>
<td></td>
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<tr>
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In Michigan, a Convention has been chosen, with a large Republican supremacy.
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