THE EARLY PERIOD OF RECONSTRUCTION IN SOUTH CAROLINA

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THE EARLY PERIOD OF RECONSTRUCTION IN SOUTH CAROLINA

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PREFACE

Perhaps no part of the history of South Carolina is looked upon by the people of the State as of greater significance than the era of reconstruction. The interest which attaches to the period and the oft-expressed desire that its events be adequately treated with strictly historical method, led the writer to undertake this monograph. What is here offered is an installment of a projected history, already in preparation, of the entire reconstruction movement in South Carolina.

The purpose of this monograph is to show by a simple narration of the facts:

1. The direct effect of the Civil War upon South Carolina economically and in political sentiment, and the spirit in which the white people of the State accepted the first attempts at reconstruction.

2. The chief features of the constitution of 1865, the political sentiment displayed in the convention, and the legislation immediately following.

3. The causes which led to the failure of the reconstruction government under the constitution of 1865, and the substitution therefor of a different plan of reconstruction, based on acts of Congress.

4. The political and military activity during the second provisional government, the method of electing the constitutional convention of 1868, the political spirit displayed in the convention, and the chief features of the new constitution through which the State gained restoration.

5. The operations of the Freedmen's Bureau in South Carolina, which operations, designed to promote the general welfare of the blacks, were beneficial in some respects but in other ways harmful.

The writer desires to make grateful acknowledgment for the many courtesies extended to him in the use of the library

of Columbia University, New York, the library of the South Carolina College, the library of Congress, the Charleston library, the valuable historical collections of Mr. August Kohn, Columbia, South Carolina, and the newspaper files in the office of The Columbia State. In addition, he has received many helpful suggestions from various gentlemen, among whom especially are to be mentioned Professor William A. Dunning of Columbia University, and Senator Tillman, the late Professor R. M. Davis, the late General Edward McCrady, Ex-Governor D. H. Chamberlain, and Judge A. C. Haskell, all of South Carolina. Last, and chiefly, he wishes to express his indebtedness for the counsel and assistance of his instructors, Professors Vincent and Willoughby, and Doctor J. C. Ballagh, of the Johns Hopkins University.

Johns Hopkins University, June, 1904.

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CHAPTER I.

Introduction.

The attitude and policy of South Carolina towards reconstruction can be better understood by remembering at the outset that the State sustained a peculiar relation to the Union on account of the views of the constitution there maintained. From the days of nullification onward the theory of State sovereignty constantly gained headway, and long before the breaking out of the Civil War it had acquired among the people an overshadowing influence as a political doctrine. Having once asserted the right of nullification and having steadily championed the doctrine afterwards, it was but natural for South Carolina to be the leader among the Southern States in the secession movement.

The deep-seated belief in the sovereignty of the State and the political leadership which South Carolina had long held at the South, had a two-fold effect upon reconstruction. First, a decided spirit of non-submission to outside control had been fostered. There had been an appeal to the sword with desolation in the State as the result. But this did not mean that State rights, so thoroughly taught by Mr. Calhoun, and so long maintained, had been instantly forgotten. The sovereignty of the State and the splendor of the old regime had been preserved in memory at least. Perhaps the belief in the theory of State rights had even been intensified by the disastrous consequences of the war.

Second, the difficulties of reconstruction in South Carolina were increased by the measures of retaliation that had been undertaken against her. It will be seen later that the State as the "hot-bed of rebellion"—as the "ringleader" in the opposition to the Federal government—was singled out by the United States military authorities as the object of special punishment. The effect of this upon public opinion was decidedly important.

It is, however, not the purpose of this study to dwell on the ante-bellum events in South Carolina that had a bearing on reconstruction. Such a discussion belongs more appropriately to another field of investigation. But it is proposed in this connection to review briefly the military operations in South Carolina during the war, in order to exhibit the condition of the State industrially, immediately after the conflict, and to point out additional facts that wielded an influence in shaping the later political policy. It will also illustrate, in part, the feeling entertained towards the State. These operations will be discussed only in so far as they are considered to have borne directly upon subsequent events.

The chief military event in South Carolina at the beginning of the Civil War was the capture of Fort Sumter by the Confederates, an occurrence which ushered in the conflict. After the fall of Sumter, a fleet of twenty-five Federal gunboats was sent to blockade Charleston harbor. This blockade was not raised until the close of hostilities in 1865. But it was difficult to shut up a harbor which had a water-front of six miles and the blockade never was very effective. The attempts made to obstruct the numerous passages by the sinking of hulks were not successful. Many vessels ran the blockade and reached Charleston. The Charleston newspapers reported the arrival and departure of vessels as regularly and as openly as before the war.[1] One account states that out of 592 attempted trips

[1] Charles Cowley, Leaves from a Lawyer's Life Afloat and Ashore, p. 110.

between January 1, 1863, and April 15, 1864, 498 were successful. Thus trade and business generally were not completely interrupted, as would at first appear. But in other respects Charleston soon began to feel the weight of the heavy hand of war. Before long the blockade grew into a siege, and the shells from Federal guns began to have a very telling effect on the city. It was reported in the spring of 1864 that, in the lower part of town, fourteen parallel streets were deserted and that probably over five hundred homes had been struck.[2] Walls were torn through, windows smashed, doors splintered, and roofs destroyed. All the down-town churches of the city were in ruins.[3] But though the Federals gained one fortification after another until only Fort Sumter remained in the hands of the Confederates, the city stood out heroically against the siege for 576 days, or until February 20, 1865.[4]

Perhaps an equally significant military event of the war in South Carolina was the expedition against Port Royal, which place with the surrounding district later became the field of important movements. Besides being the finest harbor on the South Atlantic coast, Port Royal was considered a point of strategic value to be used as a base for operations against Charleston and Savannah. A fleet of naval vessels, assigned to the command of Commodore S. F. Dupont, and thirty-three transports, carrying about 15,000 troops, under General T. W. Sherman, arrived off Hilton Head Island about November 5, 1861, and proceeded to make an assault on Fort Walker, located on the island. Only a feeble resistance was offered, as the Confederates had withdrawn their troops in considerable numbers from the coast defences and concentrated them in Virginia. The attack resulted in the capture of Fort Walker, November 7, 1861.[5] The other sea islands with their fortifications were successively occupied

[2] The New York Times, Apr. 17, 1864.
[3] The spire of historic St. Michael's Church was used as a target for the Federal artillery. Cowley, p. 116.
[4] The Charleston Courier, Apr. 18, 1865.
[5] Appleton's Annual Cyclopedia, 1861, p. 290.

by the Union forces, as was also the town of Beaufort, the chief local center. Somewhat later, the whole district lying between the Combahee and Savannah rivers, together with all the sea islands, fell into the hands of the Federals and was held by them unmolested until the close of the war.

In many respects this part of South Carolina fared worse than any other in the State. It was the richest agricultural district, being the chief section devoted to the production of fine long-stapled sea-island cotton, and containing, besides, extensive rice fields. It was also the largest slave-holding parish in the State, the slaves numbering 32,000.[6] Many of the wealthiest planters of South Carolina had their summer residences at Beaufort and on the islands, while throughout the section were to be found the homes of families representing the pride of Southern aristocracy. Upon the capture of the islands the white people retreated inland, and the forcibly abandoned farms were for the time confiscated and turned over to the negroes.[7] It was practically no better on the main land. Beaufort became a "deserted village" so far as its former white residents were concerned. Early in June, 1863, Colonel Montgomery, with five companies of a negro regiment, started from Beaufort and made an expedition about twenty miles up the Combahee river. General devastation seems to have been the chief object of the expedition. All the slaves at work on the plantations, about 800, were taken to Beaufort; and squads of colored soldiers were sent in various directions to burn buildings, and secure provisions and other property. One account states that every house, barn or other building belonging to any known secessionist was burned, and all the portable property of value carried off. In this way, several rice mills and numerous storehouses filled with rice and cotton were burned. One storehouse that was fired contained two years' crops of rice, and another, $10,000 worth of cotton. The burning of

[6] Appleton's Annual Cyclopedia, 1861, p. 298.
[7] South Carolina correspondence to New York Tribune, Jan. 27, 1864.

twenty-five buildings, many of them containing immense quantities of rice, was credited to one company alone. The locks, by which the plantations were irrigated, were broken, causing the rice fields to be flooded and the young crop to be destroyed. Large quantities of household furniture were brought away as trophies of the expedition. The same account also gives this further information: "About the same time that the above raid was made, Colonel Barton, with a large, picked force, made an expedition on three steamers to the village of Bluffton. The village was captured with but little opposition, and burned to the ground, only one building, a church, being spared." [8]

The district that thus fell into the hands of the Federals comprised the principal area in South Carolina that came under the sway of the Union authorities. Aside from the bombardment of Charleston, already mentioned, no further military operations of importance took place in South Carolina till the beginning of 1865. The regular State government held control of almost all of the State and continued in practically undisturbed operation through the war.[9] Thus South Carolina, unlike most of the Southern States, maintained without serious molestation, her status as a Confederate commonwealth about as long as the Confederacy lasted.

The Federal policy of invasion having been by land rather than by water, South Carolina, by her geographical position, was practically free from the presence of Union soldiers until near the collapse of the Confederacy. Hence there were few problems in local government growing out of military occupation, such as there were in the States of Louisiana, Mississippi, and Tennessee. The trend of military affairs indicated clearly that the war was almost over when General Sherman completed his raid through South Carolina and passed into North Carolina, there to meet and dictate terms of capitulation to General Johnston. In the

[8] Appleton's Annual Cyclopedia, 1864, p. 824.
[9] Ibid., p. 725.

short time that elapsed between the raid and the surrender of the Confederate armies, very little opportunity was given to inaugurate a military government, and during the interval matters continued in a chaotic condition.

It is perhaps important to point out that there was not in South Carolina, even during the last months of the war, any clearly defined movement or sentiment for peace. As the tide of the war rolled nearer the spirit of the people seems to have grown more and more determined. Upon the approach of General Sherman toward the borders of the State, those hitherto considered unfit for military duty—school boys and old men—were enlisted as soldiers and sent to swell the ranks of the little band opposing the invader. In his inaugural address of December 19, 1864, Governor Magrath urged the people not to hesitate in their purpose or falter in its execution so long as peace with independence was not secure. He pointed out that a hostile army, cruel and unrelenting, threatened to invade their soil, and exhorted the people to the last measure of resistance—to a willing death, if need be—in the struggle that was at hand.[10]

The leading newspapers, too, manifested a like spirit of non-submission. The Charleston Mercury, well known as a pronounced State-rights organ, vigorously urged resistance and cited the noble example of Marion and his men, when the State was overrun during the Revolution.[11]

The women of the State also displayed a willingness to take part in heroic measures. A lady writing from Pendleton urged that women be substituted for men in govern-

[10] Published in the Charleston Mercury, Dec. 22, 1864.

[11] The following is part of an editorial in the Mercury of Nov. 19, 1864:

"What cause is there for despondency? Are we degenerated from our ancestors? Can we not endure to keep what they endured to win for us. Or rather shall we not imitate their noble example and rise in spirit with the difficulties as they accumulate?—bring forth a more devoted energy to meet greater disasters, and enforce upon our enemies the conviction that they can never subdue us to their domination? Submission in such a righteous cause! Submission to a people whom we have beaten in every equal fight! Submission to the base, cruel, hateful, and hated yankee! Never—never!"

ment positions of a stationary character, thereby allowing the men to go to the front. "In this crisis of our country's fate," said she, appealing to the women, "let us arise and do our part. Let us also be held worthy to toil for our country, our homes, our children, and our dead. How noble and glorious the toil which fills a man's place and gives a soldier more to the armies of our country. We have seen the whole treasury department filled by ladies, let us now see the stationary commissary departments, leaving a few men to perform those parts which require most strength and exposure."[12] An opportunity to ascertain the sentiment of the people relative to acceptable terms of peace was presented through a letter to President Davis from W. W. Boyce, a member of the Confederate Congress. Boyce urged upon Davis that it was expedient for the Confederates to join with the Northern conservative Democrats, who proposed that the war should cease, at least temporarily, and that all the States should meet in amicable council to make peace if possible. He went on to say that the only hope of a satisfactory peace lay in the ascendency of this party at some time or other, and that in order to aid in promoting this ascendency the Confederacy should declare her willingness for an armistice and a convention of all the States in their sovereign capacity. At the same time he hinted at a policy of reorganization under the Stars and Stripes, closing his letter thus: "A weak power engaged with a stronger must make up in sagacity what it lacks in physical force, otherwise the monuments of its glory become the tombs of its nationality."[13]

This letter caused a storm of protest, and brought down bitter denunciations upon the writer. At mass meetings held in different parts of his congressional district, Boyce was charged with being a reconstructionist, and resolutions condemnatory of his policy and inviting him to re-

[12] Printed in the Mercury, Nov. 1, 1864.
[13] Printed in the Charleston Courier, Oct. 13, 1864.

sign his seat in Congress were adopted.[14] In discussing the policy advocated by Boyce, the Courier took the position that proffers of peace should first be made by the Federal authorities. "It is they who forced us to take up arms," said the editor, "and we must fight until we oblige them to acknowledge their inability to conquer and enthrall us. We can only extort that confession by maintaining our position, by thwarting and frustrating their well-laid plans, by beating back their powerful armies, by wresting our territory from their grasp, and if need be by carrying the war into their own borders."[15]

Many must have seen at this time that the Confederacy was doomed, and that the efforts being made by the governor and others to resist Sherman's invasion were utterly useless. But if there were these, few or many, the existing records indicate that they observed a discreet silence.

It is not to be inferred that the people did not desire peace. They desired it most earnestly, by armistice and negotiation with the North, provided they could be assured beforehand that the terms of peace would be to their satisfaction. But they were on no account in favor of a peace which brought them again under the dominion of the United States. The citizens of Fairfield district, in a public meeting called to take action on Boyce's letter, passed a resolution that they were utterly opposed to reconstruction under any circumstances. At the same time they expressed a desire that all honorable efforts be made by diplomacy to put

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[14] Courier, Oct. 24, 1864. The following is the preamble of the Boyce resolutions passed at the anti-peace mass meeting at Columbia:

"With Mr. Boyce's motives and intentions we have no concern. *The tendency of the letter is to instil feelings of submission and suggest the wish for reconstruction.* Its logic is more directly opposed to secession and a separate confederacy than in favor of the measure as a remedy proposed in our extreme distress. It is full of gloomy despondency and is calculated to create dissatisfaction with our government, and to reconcile us to that of our enemy and to dispirit our army in the field."—New York Herald, Oct. 29, 1864. 1864.

[15] Courier, Nov. 9, 1864.

an end to the war on terms consistent with the safety and independence of the Confederate States.[16]

Perhaps those who favored reconstruction in conformity with the constitution of the United States—and there must have been some such—would have spoken their preferences, if the State had been in the control of the Federal soldiers. But as it was, the war party being strongly in the majority, an apparent general unanimity prevailed to offer all the resistance possible. The legislature declared that all free white men between the ages of sixteen and sixty years were liable to militia service; and the governor ordered all such persons to come forth for the defense of the State. He said in his proclamation that the free proffer of service was what the State desired, and that service not proffered would be demanded.[17]

This, in general, was the aspect of affairs about the first of January, 1865, when Sherman, in his "March to the Sea," had reached and was occupying Savannah, and proposed as his next move to cross over into the Palmetto State. The unbroken spirit of the South Carolinians would seem extraordinary in view of the rumor abroad that the "original seedbed of the heresy of secession" was to be the object of special vengeance to the invading army. Evidence of this intended vengeance, especially for Charleston, is given in the following correspondence:

HEADQUARTERS OF THE ARMY.
Washington, Dec. 18, 1864.

Major-General W. T. Sherman, Savannah.

My dear General: . . . . . Should you capture Charleston, I hope that by some accident the place may be destroyed, and if a

[16] Mercury, Nov. 12, 1864. Late in 1864 the following resolution was introduced in the South Carolina Senate: "That the termination of the present iniquitous and bloody war is an object devoutly to be desired by the Confederate States, but only on terms of absolute separation from the United States."—New York Herald, Dec. 11, 1864.

[17] The proclamation is published in the Courier, Jan. 25, 1865.

little salt could be sown upon its site, it may prevent the growth of future crops of nullification and secession.

Yours truly,
H. W. Halleck, Major-General, Chief of Staff.[18]

Headquarters Military Division of the Mississippi.
In the Field, Savannah, December 24, 1864.

Major-General H. W. Halleck, Chief of Staff, Washington, D. C.

Dear General: . . . . . I will bear in mind your hint as to Charleston, and do not think "salt" will be necessary. When I move, the Fifteenth Corps will be on the right of the right wing, and their position will naturally bring them into Charleston first; and if you have watched the history of that corps, you will have remarked that they do their work pretty well.

I remain, as ever, your friend,
W. T. Sherman, Major-General.[19]

As to the feeling of extreme bitterness toward South Carolina General Sherman's own statement is authority. He says: "Somehow our men had got the idea that South Carolina was the cause of all our troubles; her people were the first to fire on Fort Sumter, had been in a great hurry to precipitate the country into civil war; and therefore on them should fall the scourge of war in its worst form. Taunting messages had also come to us when in Georgia to the effect that when we should reach South Carolina we should find a people less passive, who would fight us to the bitter end, daring us to come over, etc.; so that I saw and felt that we would not be able longer to restrain our men, as we had done in Georgia."[20] The army correspondent of the New York Herald wrote that the feeling of bitterness was universal in the army, and testimony to the same effect may be had from other sources.[21]

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[18] Memoirs of Gen. W. T. Sherman, Vol. II, p. 222.

[19] Ibid., p. 226.

[20] Ibid., p. 269.

[21] New York Herald, March 20, 1865. The following is an editorial in the New York Times of Dec. 28, 1864: "Sherman's soldiers are intensely anxious to be led into South Carolina. They are eager beyond measure to take a promenade through the Rattle-Snake State. We do not wonder at it. . . . . South Carolina is the guiltiest of all the rebel states. It was South Carolina that gave

As a memorable event in South Carolina the Sherman raid is perhaps without a parallel. By the object lesson which accompanied his definition of war, General Sherman established his capital truth with decided emphasis. The actual strength of the army during the campaign of the Carolinas was sixty thousand and seventy-nine men. The animals employed in the army numbered at least forty thousand,[22] and both man and beast are said to have fared sumptuously.[23] Soldiers and stock alike were fed almost exclusively from the granaries and cornfields through which they passed, and upon such beef cattle, poultry, etc., as could be gathered along the line of march.[24] Of course, this army had to be subsisted, and by all the rights of war the commanding general was justifiable in allowing his army to live off the country. But the size of the army and the manner of procuring the means of subsistence, together with the heavy demands previously made by the Confederacy, meant practically complete exhaustion for the State. The army correspondent of the New York Times estimated the following as the amount of food-stuffs, live stock, etc., taken from the State by Sherman's army: 15,000 head of beef cattle, 500,000 pounds of bacon and pork, 3,000,000 pounds of flour and meal, 1,000,000 bushels of corn, 5000 horses and mules, and a countless variety of articles of food of general utility.[25]

But it is not by the drain that was made on the resources of the State that the raid is chiefly remembered. As will be seen further on, much ruin was wrought to real property, from the effects of which the State has scarcely yet recovered. And, besides, the accounts would seem to indicate that a large portion of this waste was needless. The army seemed

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birth to the master traitor Calhoun, idolized him living and canonized him when dead; it was South Carolina that incited and forced other States to disunion; it was South Carolina that passed the first ordinance of secession; it was South Carolina that began the war."

[22] New York World, Apr. 14, 1865.

[23] Army correspondence of the New York Times, Apr. 8, 1865.

[24] New York Times, Apr. 8, 1865.

[25] New York Times, Apr. 8, 1865.

instinct with the spirit of wholesale destruction, and from appearances they were allowed by those in command to have their way. General Sherman practically admits this when he says: "I would not restrain the army, lest its vigor and energy should be impaired."[26] According to one writer, the "standing order" was to pillage and burn to the ground every abandoned dwelling; but if occupied, then to pillage but not to burn.[27] It is said that Sherman's track across the State could for a long time be traced by the blackened chimneys, all that remained standing of once magnificent homes.[28] "Wide spreading columns of smoke rose wherever the army went."[29]

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[26] Sherman's Memoirs, II, p. 254.

[27] J. A. Leland, A Voice from South Carolina, p. 7.

[28] W. G. Simms, Sack and Destruction of the City of Columbia, p. 22. The New York News' special correspondent has this report in the issue of that newspaper for September 27, 1865: "South Carolina has indeed felt the oppressor's heel. Sherman passed through the State and made a track forty miles wide as plain as fire, plunder, and utter devastation could make it. In many places the only marks of former life are the chimneys left standing to tell where once gathered happy families."

[29] The following correspondence, quoted from Appleton's Cyclopedia, 1865, p. 43, is cited:

GRAHAMS, S. C., February 7, 1865.

General: I have the honor to propose that if the troops of your army be required to discontinue burning the houses of our citizens, I will discontinue burning cotton. . . . I trust you will not deem it improper for me to ask that you will require the troops under your command to discontinue the wanton destruction of property, not necessary for their sustenance.

Respectfully, General, your obedient servant,
J. Wheeler, Major-General, C. S. A.

HEADQUARTERS MILITARY DIVISION OF THE MISSISSIPPI.
In the Field, Feb. 8, 1865.

General: Yours addressed to Gen. Howard is received by me. I hope you will burn all cotton and save us the trouble. We don't want it and it has proven a curse to our country. All you don't burn I will. As to private houses occupied by peaceful citizens, my orders are not to molest or disturb them, and I think my orders are obeyed. Vacant houses being of no use to anybody, I care little about, as the owners have thought them of no use to themselves. I don't want them destroyed, but I do not take much care to preserve them.

I am, with respect, yours truly,
W. T. Sherman, Major-General, Commanding.

The general direction of Sherman's course through South Carolina was due north from Savannah, thence in a northeasterly direction toward Fayetteville, N. C.[30] The first districts in the State reached by the army were Beaufort and Barnwell, or what is now Hampton. The country mansions of the districts, such as had escaped previous raids, were burned and the people left desolate.[31] The towns of Buford's Bridge, Barnwell,[32] Grahamville, Robertsville,[33] Bamberg, and Midway next fell in the track of the army, where the same policy of plunder and burning is reported to have been carried out. This brought the army up to the South Carolina Railroad, which extended from Augusta, *via* Branchville, to Charleston. This road was very important as a means for forwarding supplies from Augusta and northern Georgia to Richmond. The troops were immediately set to work to destroy the road and did so thoroughly for a distance of about fifty miles—from Branchville to near Aiken.[34]

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[30] Appleton, 1865, p. 42.

[31] Simms, p. 8. In the same connection he has this to say: "The inhabitants, black, no less than white, were left to starve, compelled to feed, only upon the garbage to be found in the abandoned camps of the soldiers. The corn scraped up from the spots where horses fed has been the only means of life to the thousands but lately in affluence."

[32] General O. O. Howard, in a series of newspaper articles, published after the raid, relates the following conversation:

General Howard: "By the way, General, I heard a good joke about you yesterday."

Gen. Kilpatrick: "What was it?"

Gen. Howard: "It was this: Gen. Sherman said that you, Kilpatrick, were changing the names of places about here, so that soon a new geography would have to be made. He said he sent you up to Barnwell the other day, and that you had changed the name of the place to *Burnwell.*"—New York Times, May 13, 1865.

[33] "A mile and a half further on we found the smouldering ashes of Robertsville. . . . . Not a building was saved from the flames." Doyle's dispatch to the New York Herald, March 18, 1863.

[34] Says General Sherman: "As soon as we struck the railroad, details of men were set to tear up the rails, to burn the ties, and twist the bars. This was a most important railroad and I proposed to destroy it completely for fifty miles, partly to prevent a possibility of its restoration, and partly to utilize the time necessary for General Slocum to get up."—Memoirs, II, p. 259.

The movement on Orangeburg, about twenty miles north of Branchville, was next commenced. At the same time the left wing of the army swept the country to the west, extending as far as Lexington. Arrived at Orangeburg, one corps gave its attention to the matter of destroying the railroad toward the north, which work was done effectually for a distance of twelve miles.[35] Leaving the court-house towns of Lexington and Orangeburg in ashes, meanwhile having destroyed a bridge across the Congaree River near Kingville, General Sherman took up the line of march toward the capital of the State. The army arrived on the western bank of the Congaree, opposite Columbia, February 16, one column having been advanced toward the northwest to break up the railroads and bridges about Alston. Upon the approach of the Federals, the small detachment of Confederate cavalry withdrew, leaving the city unreservedly to the enemy. On the next day the mayor made a formal surrender, requesting at the same time protection of private property.

Sherman's orders relative to the occupation of the city are as follows: "General Howard will cross the Saluda and Broad Rivers as near their mouths as possible, occupy Columbia, destroy the public buildings, railroad property, manufacturing and machine shops; but will spare libraries, asylums and private dwellings. He will then move to Winnsboro, destroying *en route,* utterly, that section of the railroad. He will also cause all bridges, trestles, and water tanks back to the Wateree to be burned, switches broken, and such other destruction as he can find time to accomplish, consistent with proper celerity."[36]

It is not proposed here to take up again the question of to whom belongs the responsibility of burning Columbia. South Carolinians, upon what seemed to them reasonable proof,[37] placed the blame entirely upon General Sherman and

[35] Appleton, 1865, p. 44.
[36] Memoirs, II, p. 277.
[37] See Gibbes, Who Burned Columbia?

his army. This belief had the effect of greatly augmenting the bitterness of the people toward the North.

The losses sustained in the sack and burning of Columbia were very great, traces of which are still partially discernible. The fire swept over eighty-four squares of the city, consuming in all 1386 separate buildings. Among these were four churches, numerous warehouses filled with cotton, all the passenger and freight depots and railroad work-shops, the city hall and postoffice, five banks, many government stores, the principal hotel, a Jewish synagogue, and a Catholic convent, and all the business and manufacturing houses on Main street.[38] The loss was greatly augmented for the reason that Columbia was looked upon as one of the most secure places of refuge. It was thought that, as the city contained so many of the manufactures of the Confederate government, the treasury, the commissary stores, the powder magazines, etc., the place would be defended with the utmost energy. Moreover, the city was an important railroad center. Hence the banks of Charleston, together with many in other parts of the State, had removed thither their assets. In addition to their ordinary assets, several had brought for safe-keeping other treasure of great value, such as silver plate, jewels, bonds, pictures, and works of art. Hundreds of farmers also had fled before the advancing army and taken refuge in Columbia, bringing with them whatever of valuables they could carry.[39] These facts will explain how the loss from plunder and fire fell unusually heavily upon the whole State. Doubtless many things would have been saved, had there been means of removing them. But transportation facilities had been cut off, and there was no way of escaping with the treasure.

The army "having utterly ruined Columbia"—these

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[38] Simms, p. 57, et seq.; New York Herald, June 28, 1865. The Herald's field correspondent gave this account: "I will simply observe that the night of Friday, Feb. 17, would have cracked Alaric's brain if he had witnessed it."—Herald, March 18, 1865.

[39] Notes of a conversation with the late James G. Gibbes.

words are General Sherman's [40]—began the march northward towards Winnsboro, which place was reached on February 21. The left wing of the army had swung around to the northwest, destroying the villages of Alston and Pomaria.[41] General Sherman's order, quoted above, was fully carried out, and the railroad from Columbia to Winnsboro, a distance of thirty miles, was destroyed as was also forty miles of the road leading toward Florence.[42] The town of Winnsboro met a fate similar to that of others in the track of the army. The public square was destroyed, as well as the Episcopal church and other property.[43]

From Winnsboro, the course of the army was towards the northeast, through part of Chester, and through Kershaw, Lancaster, and Chesterfield districts. The principal towns and villages in this scope of country were Blackstock, Society Hill, Camden and Cheraw, and to these the torch was applied more or less ruthlessly. At Camden, two railroad depots, an engine house, two thousand sacks of flour and corn meal, twenty hogsheads of rice, two thousand bales of cotton and a large flouring mill were together burnt or carried off.[44] The business portion of Cheraw, the chief town in Chesterfield district, was burned, except one house. Nor was it upon the towns alone that the iron hand of war fell. The rural districts were likewise devastated.[45] General F. P. Blair, U. S. A., writing on this point, said: "Every house that one passes is pillaged, and I think, as we are about to enter North Carolina, the people should be treated more considerately." [46]

The army passed out of South Carolina about March 8,

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[40] Memoirs, II, p. 288. [41] Gibbes, p. 59. [42] Memoirs, II, p. 274.

[43] Report of Committee on Destruction of Churches, Diocese of S. C., p. 14.

[44] Official Records of the Union and Confederate Armies, Series I, Serial No. 98, p. 353.

[45] This is the testimony of a Federal soldier relative to the devastation of the country: "Wherever a view could be had from the high ground, black columns of smoke were seen rising here and there in a circuit of thirty miles." New York Herald, March 15, 1865.

[46] Official Records, Series I, Serial No. 99, p. 717.

and when it had passed there is very good authority for saying that the country was scarcely recognizable. General O. O. Howard later gave the following testimony relative to this subject: "I went over the country afterwards, and it was pretty completely cleared out; I saw the chimneys and scarcely anything left in the country through there."[47] Outside of the army's track, much loss was incurred by people who, in anticipation of the soldiers, buried things of value and had to leave them in the ground until they were ruined. Various devices were resorted to, to provide against the expected pillage.[48]

It is perhaps safe to say that no Southern State paid so dearly in proportion to its means for its resistance to the National government as did South Carolina. Summing up her accumulated misfortunes, it may be said that out of 146,000 white males of all ages in the State at the census of 1860, she lost 40,000 by death or disablement. This is a rate of one for every three and six-tenths. The loss in slave property was far greater proportionally than in any other Southern State, for she had proportionally far more of it. There were in the State at the beginning of the war 402,406 slaves, while the entire white population numbered only 291,386.[49] The value of the slave property is said to have been $200,000,000. A writer in the Charleston News makes the statement that the assets of the banks of the State were $5,000,000, all of which were lost. Of the $5,000,000 of bills in circulation, the market value is reported to have been not more than twenty per cent of their face value. All of the large and valuable estates in Beaufort district and on

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[47] Gibbes, p. 105.

[48] One lady tells the following story: "Besides my war pockets which reached to the hem of my dress, I carried, hung upon a heavy cord about my waist, one piece of flannel, two pounds of tea, five pounds of coffee, twelve yards of dress goods, twelve yards of muslin, two pounds of sugar, a silver cup, a dozen silver forks, the same of spoons, spools of cotton, silk, needles, pins, etc. In my skirts were sewed my watch, money and private papers."
Women of the War, No. 16.

[49] New York Times, Sept. 13, 1865.

the adjacent islands had been abandoned, and many of them sold by the Federal government for taxes. A very heavy loss came with the burning and seizure of the vast quantities of cotton, the value of which at the time was estimated at $20,000,000. Of the horses, hogs, cattle, farming implements, furniture, and silverware, all but an inconsiderable amount is reported to have been destroyed, consumed, or taken; while the funds of colleges, churches, and charitable institutions were largely sunk. The same writer concludes his doleful account with the statement that, of the $400,000,000 of property in South Carolina in 1861, but little more than $50,000,000 remained in 1865.[50]

It is reasonable to suppose that the bitterness of the people, already great, was considerably increased after the great injuries they had sustained. The ragged Confederate soldier, returning to his home, found very little of consolation in the spectacle of a burnt dwelling and his wife and children deprived of shelter and on the brink of starvation. He was confronted with the very practical question of at once earning a livelihood, while the means of earning it had been in his absence destroyed. These things naturally augmented the difficulties of reconciliation, and when the time came, complicated the work of reconstruction. For the seeds of hate were thus sown, although they bore no immediate fruit.

During the month or so that intervened between the time when Sherman passed out of the State and the surrender of the Confederate armies, there seems to have been little activity, military, political or economic in South Carolina. Governor Magrath had fled from Columbia upon the approach of Sherman, and the government of the State was left without a head. The legislature tried to meet at Greenville, but failed to get a quorum. Only about thirty members made their appearance, and these met and adjourned without taking any definite action in reference to another meeting.[51]

[50] These estimates of losses are reprinted from the Charleston News in the New York Herald of Aug. 30, 1865.
[51] Courier, May 10, 1865.

Governor Magrath returned to Columbia on May 2, and issued a proclamation announcing the surrender in North Carolina of the army under the command of General Johnston. He reminded the people that in the termination of the Confederate government circumstances had rendered the condition of South Carolina one of peculiar embarrassment. The consequences of the war, he said, involved a considerable portion of the population in a want approaching starvation. To the end that suffering might be checked, he directed that all subsistence stores and property of the Confederate States within the limits of the State should be held for the purpose of furnishing support to the thousands who were destitute, and in want of food, and whose suffering could only be alleviated by this disposition of the supplies.[52]

On May 8, the governor, in order that civil government might be restored without delay, directed that all officers of the State, " with all convenient promptitude," should return to Columbia, reopen their offices, and resume their proper duties.[53] It is evident that Governor Magrath did not comprehend the real status of the State. General Gilmore, commanding the Department of the South, issued an order that the proclamation of A. G. Magrath, " styling himself governor of South Carolina " and directing that subsistence stores should be issued for the relief of the people of the State, was declared null and void. The order further enjoined the people to give no heed whatever to any orders, proclamations, commissions, or commands emanating from any person claiming the right to exercise the functions and authority of governor in the State of South Carolina.[54]

Upon the promulgation of this order, Governor Magrath sent a reply to General Gilmore, giving as his reason for the action taken in regard to the subsistence stores, the destitute condition of the people in the upper districts of the State. At the same time and in view of the fact that " sundry and divers acts of treason " had been charged against him and

[52] Courier, May 10, 1865.
[53] Ibid., May 18, 1865.
[54] Printed in the Courier, May 25, 1865.

his authority as governor denied, Magrath issued an address to the people stating that his functions as executive had ceased, and that the State was in the hands of the military authorities of the United States. He also announced that the proclamation relative to subsistence stores had been recalled. He reminded the people that the war was over and that it was their duty to reconcile themselves to that submission which the government of the United States could impose and they could not resist. "Whatever may be your condition," he continued, "unavailing resistance on your part will but make it worse. With an earnestness of the sincerity of which I need not give you assurance, I urge upon you the resumption of your peaceful pursuits, and the adaptation of yourselves to those changes which may be made in your condition. Do not be misled by excitement; give no heed to passion; deal resolutely with facts; look the truth clearly in the face; spill no more blood; accept with the dignity which even misfortune can command, the condition which you cannot avert." [55]

On May 25, General Gilmore sent a detachment of soldiers to Columbia and arrested Governor Magrath on the charge of high treason. He was imprisoned at Fort Pulaski, Savannah, until December, when he was released on parole.[56]

The imprisonment of the governor, the existence of martial law, and the consequent disruption of the State government, left South Carolina in a sad condition. Her people were for the time deeply humiliated. They had already known what it meant to be the object of special vengeance, and forebodings of the future appeared to be equally gloomy. It was feared that South Carolina, jeered at as the "nest wherein was hatched the snake of secession," would lose her status as a State entirely and become part of the national public domain. Vast tracts of her territory along the coast and the sea islands had even then been confiscated and rumors of entire confiscation were everywhere prevalent.

[55] Courier, May 29, 1865.
[56] Charleston Year Book, 1895, p. 372.

The negroes, too, had come to identify freedom with idleness, and idleness had brought its ever-present companion, mischief. Lawlessness and crime were alarmingly on the increase.[57]

Hence a desire for the re-establishment of some form of civil authority was early evinced. The Federal law was admitted to be the only source of protection, and steps were soon taken to call a general convention to take action in the premises. It early became known that the President intended to appoint a provisional governor for South Carolina, as soon as the people expressed a willingness to renew their loyalty to the Union. Accordingly resolutions were adopted at various public meetings in the State, to the effect that it was the duty of all citizens to refrain from every act of hostility and to promote the return of friendly feeling toward the United States. The citizens of Charleston did not even wait for the holding of a convention, but on their own authority memorialized President Johnson to appoint at once a representative citizen provisional governor. The memorial set forth that the determination was universal to be in spirit and in truth loyal, and to do all that became citizens of the United States to promote the prosperity of their country.[58] The city sent a committee to Washington to present a memorial to the President. Judge Frost, Colonel Yates, and Messrs. Isaac Holmes, Geo. W. Williams, Frederick Williams, J. A. Sternmeyer, and William Whaley, were among the members of the delegation.[59]

About this time a report reached the State that there would probably be considerable delay in the South Carolina appointment, inasmuch as the delegation at Washington did not represent the Unionist sentiment. A. G. Mackey, collector of the port of Charleston, was in Washington and seems to have done what he could to delay the appointment of a provisional governor. He denounced the delegates as

[57] Courier, June 29, 1865.
[58] The memorial is printed in the New York Times, June 10, 1865.
[59] New York Times, June 25, 1865.

original secessionists and violent rebels, and tried to destroy any claim they made to confidence or honesty of purpose.[60] Another matter that disturbed the people was the attitude of some of the Northern newspapers toward the State. It was reported that South Carolina, on account of her rebellious instincts, might be kept under martial law indefinitely.[61] However, fortunately or unfortunately for the State, these rumors relative to making an exception of South Carolina proved to be without foundation.

Upon what terms the Charleston delegates asked to be restored is not known; but it is likely that they did not lose much time in quibbling. The State had seen enough of war, devastation and anarchy. It was time for peace and order to prevail. The men suggested to the President as material from which to select a provisional governor were ex-Governor Aiken, W. W. Boyce, Samuel McAlilley, ex-Governor Manning, and B. F. Perry.

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[60] Courier, June 29, 1865.

[61] Said the New York Herald of June 23, 1865: "This State having been the first and most rampant in the rebellion, will probably be the last to receive the benefits of reconstruction. All the other Southern States will in a short time be under civil rule again, while South Carolina will be suffered to undergo a year or so of probation, before she can be relieved of military dominion. That is the proper government for her at the present time; for it is a question whether a sufficient number of loyal and trustworthy white natives can be found in the State to fill the civil offices. Therefore the Palmetto State will probably have to be content for the present with military rule."

CHAPTER II.

Presidential Reconstruction.

By June 21, 1865, President Johnson had appointed provisional governors in all the seceding States except South Carolina and Florida. Convinced of the readiness of the people of the State to accept his plan, on June 30 the President issued a proclamation appointing Benjamin F. Perry provisional governor, who was looked upon by many in the State as the ideal man for the office.[1] Judge Perry was born in Pendleton District in 1805. He was descended from Revolutionary stock, being of common ancestry with Commodore Perry. He studied law at Greenville and soon won a reputation as an attorney of decided ability. Early in life he became conspicuous in politics. As leader of the Union party in the State he was an unwavering antagonist of nullification, and a political opponent of Calhoun.[2] His fearless and able opposition to the doctrines of the State-rights school made him, for many years, the most unpopular man, politically, in South Carolina. When the State seemed about to secede in 1850, he expressed the opinion that disunion would be destructive of the very institutions in the South for the preservation of which the Union was to be dissolved. In opposition to all the other South Carolina delegates, he refused to withdraw from the famous Charleston convention of 1860, declaring that on the unity of the Democratic party depended the life of the Union. He predicted the war and the defeat of the South and urged that it was folly to secede with a Democratic majority in Congress, in the Supreme Court, and in the country. But when South Carolina left the Union

[1] Courier, July 8, 1865.

[2] Ibid.

he yielded to the majority and went with his State.[3] Being too old for active service in the field, he devoted his energies to the service of the Confederacy at home. During the conflict he served as member of the legislature, Confederate commissioner, district attorney and district judge.

The prophetic wisdom and patriotism of Judge Perry's course had been so amply justified by the light of later events that the people were now glad to have him as their State executive.[4] But despite his consistent record as a Union man before the war, his appointment did not meet with the same favor at the North. In a speech delivered in Greenville before a public meeting, assembled for the purpose of asking a restoration of civil government, Judge Perry had made a rather invidious comparison between Presidents Lincoln and Johnson. Contrary to the general opinion that the South had sustained a great loss in the death of Lincoln, he declared that Johnson was a much abler and firmer man than the late President and in every way more acceptable to the South. At the same time he had alluded in a rather uncomplimentary manner to the devastation of the State at the hands of the Federal soldiers. This address was published in the Northern newspapers and President Johnson was roundly criticised for appointing as provisional governor a man of such views.[5]

The President's South Carolina proclamation was an exact copy of the one issued on May 29, inaugurating the presidential policy of reconstruction in North Carolina. It declared that, since the constitution guaranteed to every State a republican form of government, and since the people of

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[3] "You are all going to the devil and I will go with you," he said, in announcing his purpose for the future. Sketches by Gov. Perry, p. 6.

[4] Courier, July 8, 1865.

[5] The following is an editorial in the New York Tribune of July 20, 1865: "If there be in South Carolina no better timber than this wherefrom to fashion a provisional governor, we think the manufacture might have wisely been postponed. . . . . From the beginning to the end of this harangue there is no recognition of that large body of the people of South Corolina who are not humiliated."

South Carolina through a rebellion waged by a portion of the people of the United States, had been deprived of all civil government, it was the President's duty, as commander-in-chief of the army and navy, to re-establish that form of government in the State to which the people were entitled. To further this end, the provisional governor was directed to prescribe without delay "such rules and regulations as may be necessary and proper for convening a convention composed of delegates to be chosen by that portion of the people of said State who are loyal to the people of the United States, and no others, for the purpose of altering or amending the constitution thereof and with the authority to exercise within the limits of said State all the powers necessary and proper to enable such loyal people of the State of South Carolina to restore said State to its constitutional relations to the Federal government, and to present such a republican form of State government as will entitle the State to the guaranty of the United States, and its people to protection by the United States against invasion, insurrection and domestic violence." Those who should not have previously taken the oath prescribed in the amnesty proclamation of May 29, were to be excluded from exercising the privilege of electors and from becoming members of the convention. The convention, when assembled, was to determine the qualifications for suffrage. The military commander of the department and his subordinates were directed to assist the provisional governor in carrying the proclamation into effect. The secretary of state, the secretary of the treasury, the postmaster-general, the district judge, the secretary of the navy, and the secretary of the interior, were directed to put in force, in the geographical limits of the State, all laws relating to their respective departments.[6] This proclamation was followed on July 21 by a similar one from Provisional Governor Perry.

[6] Richardson, Messages and Papers of the Presidents, Vol. VI p. 312.

On the ground that it was impossible to fill the various offices with Union men, Perry reinstated those who were in office when the civil government of the State was suspended in May, the officers being required to take the amnesty oath. Loyal citizens who were legal voters prior to secession and who had taken the amnesty oath and who were not in the excepted classes of the President's proclamation, were declared entitled to vote. Citizens included in the excepted classes were to take the oath and to apply for pardon before they could vote or become members of the convention. The delegates thus elected were required to assemble in convention in Columbia on September 13 for the purpose of amending the old constitution or of making a new one, which would conform to the recent great changes that had taken place in the State and which would be more in accordance with republican principles. In the meantime, all laws of force in the State prior to secession were declared to be in force under the provisional government, except such as conflicted with this proclamation. The judges and chancellors were required to exercise all the powers and perform all the duties appertaining to their respective offices. The military authorities and lawful citizens of the State were called upon to unite in preserving peace and good order.[7]

At home, Perry's proclamation gave very great satisfaction. With their own chosen officers restored and with freedom to regulate the status of the negroes, there was reason for the people to hope for better days in South Carolina. But the proclamation did not meet with the same favor at the North. Soon after its promulgation, President Johnson telegraphed Perry that it was reported "in high circles" that the provisional governors were ignoring the old Union men and giving a preference in all their appointments to rebel soldiers. This report, said the President, was damaging the administration and giving just cause of complaint. It must be inferred from the singling out of Pro-

[7] Appleton, 1865, p. 758.

visional Governor Perry in this way that his action was in part the ground of complaint. Perry replied that the report was untrue in his State; that there were no truly Union men in South Carolina to be ignored; and that the Union sentiment had waxed strong only among some who sought office. He went on to say that he preferred to appoint honest, competent soldiers who had been maimed in the war rather than those who would identify themselves with any party for office, regardless of principle or country.[8]

A matter that called for much of Provisional Governor Perry's attention was the issuing of pardons. He exercised this power very freely and was deluged with applications. No one who applied seems to have failed to receive the governor's recommendation. He gave as his reason for this liberal exercise of the power, that no one was to blame for taking sides with his State after she had seceded. There was no neutral ground, he said. If a man went against his State he was guilty of treason, and the Federal government was powerless to protect him. There were eight hundred and forty-five persons in the State, numbered among the excepted classes of the amnesty proclamation, who received executive clemency. Six hundred and fifty of these belonged to the class excepted for being worth over $20,000. The rest were Confederate tax-collectors and postmasters, Confederate agents and blockade runners.[9]

The constitutional convention met according to appointment on September 13, with the assurance from the North that its deliberations would be watched with close scrutiny. The people of South Carolina had been longer and more virulently alienated from the National government than those of any other State, it was said, and the spirit which she showed in the proceedings of the convention would determine conclusively what would be her future fate.[10] As to

[8] Journal of the Constitutional Convention of 1865, p. 17.
[9] Senate Document, 1st session, 40th Congress, No. 32, p. 44.
[10] Said the editor of the New York Times: "If it proves to be the old spirit, with only such modifications in its working as getting

personnel, the convention was said to have been regarded as the ablest body ever assembled in the State.[11] Several of the delegates were men of national reputation. Among these were James L. Orr, speaker of the national House of Representatives prior to the war and ex-Confederate senator; F. W. Pickens, late Federal congressman and first secession governor; and Samuel McGowan and John Bratton, late brigadier-generals in the Confederate army. Twelve of the delegates had been members of the secession convention of 1860. In this number were D. L. Wardlow, president of the convention, and John A. Inglis, who introduced the secession resolution.[12] Most of the delegates had been active during the war on the side of the Confederacy, and it is not a matter of surprise that the proceedings of the convention were looked upon with suspicion at the North.

Soon after its assembling, the convention heard a message from Provisional Governor Perry, in which he urged an unqualified acceptance of the issues of the war and legislation in conformity therewith. "Instead of dwelling on the past and grieving over its errors and misfortunes, let us," said he, "with manly fortitude, look to the future and accommodate ourselves to the conditions which surround us, and which cannot be changed or avoided." He acknowledged the death of slavery and urged obedience to the solemn oath, which the members had taken, to abide by and faithfully to support all laws and proclamations regarding the emancipation of the slaves. The purpose for which they had met in convention, viz., to enact legislation whereby South Carolina might regain her civil rights and be restored to the Union, would be impossible so long as slavery was not

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back into the Union imposes, we may safely set it down that she will remain poverty stricken and miserable. If on the other hand it exhibits a radical change in keeping with the new epoch, it is equally certain that she will soon recover from her calamities and attain both a material and moral power such as she has never yet experienced." New York Times, Sept. 13, 1865.

[11] New York Herald, Sept. 15, 1865.

[12] Correspondence of the New York World, Sept. 29, 1865; Journal of the Secession Convention, p. 46.

abolished. In regulating the relative duties of employer and employe, he advised a wise, just and humane treatment of the freedman. If a liberal policy was pursued, the blacks would soon become as strongly attached to the whites in their new condition as they were while in slavery. Changes looking to the popularizing of the fundamental law were strongly urged. It had been the reproach of South Carolina that her constitution was less republican in form than that of any other State in the Union. To this fact many traced the origin of that discontent with the Federal government which, after having been fostered for many years, eventually led to secession. The parish system should be destroyed, representation should be in proportion to taxation and population, and the elections of governor and presidential electors should be by the people. The franchise should not be extended to the freedmen in their ignorant and degraded condition. "This is a white man's government and the white man's only." The Supreme Court of the United States had decided that the negroes were not citizens. No notice should be taken of the contention of the radical Republican party in the North that there should be no distinction between voters on account of color, as each State had the unquestionable right of deciding for herself who should vote.[13]

The first measure considered by the convention was an ordinance to repeal the ordinance of secession passed December 20, 1860. The presidential plan, which provided, as one of the requisites for readmission, that the State should

[13] Journal of the Convention, p. 11. The message was assailed unsparingly by some of the Northern newspapers. The New York Tribune, Sept. 20, said: "Governor Perry goes out of his way to exhume the Dred Scott decision for the sake of a fling at the Republican party.—'They forget,' he says of that party, 'that this is a white man's government and intended for the white man only.' We may be excused for forgetting what we never knew. It is hardly worth while, it is hardly good policy, to couch a petition in words that are an insult to the party which is to grant the petition or reject it at its discretion. The difficulty with Governor Perry is that he wants to put the clock back four years. We assure him that South Carolina must present herself at the door of the House next December with quite other words than his upon her repentant lips if she looks to see those doors fly open to her delegation."

declare secession "null and void," does not seem to have elicited any attention. The convention, as it appears from the journal, did not hesitate to adopt its own plan. The special committee, to whom the matter was referred, recommended that the ordinance withdrawing the State from the Union, "be, and the same is hereby, *repealed.*" This was the only plan submitted and the committee's report was adopted by a majority of 105 to 3.[14] Judging from this almost unanimous action of the convention, it is safe to say that there was still the old belief in the principle that a State has the right to secede, whether allowed to exercise it or not. The attitude of the convention on this question brought out the contention at the North that the State was "playing at the game of rebellion again."[15]

The abolition of slavery was the most important measure that came before the convention. A spirited discussion arose when the special committee to which the question was referred made its report. The members, with few exceptions, were in favor of abolition, but it was on the particular phraseology to be embodied in the ordinance that differences of opinion were entertained. One of the prominent objects of the debate was to make it appear by the wording that the abolition of slavery was brought about by the action of the United States authorities and not by the voluntary action of the convention. The ordinance as originally submitted de-

[14] Journal of the Convention, p. 27.

[15] The following is an editorial in the New York Tribune, Oct. 17, 1865: "The repeal of the ordinance will not do. We do not demand repeal but renunciation. This is not a distinction without a difference but a distinction involving fundamental principles. . . . . Repeal implies an original right to enact; repeal repudiates no future power to reestablish; repeal may be the result of new light of political expediency, or as Lee's surrender was, of overpowering necessity. But a renunciation of the right of secession—a declaration that the ordinance is null and void, and all the acts done in pursuance of it are null and void because of its original illegality—this strikes at the root of rebellion; it is a distinct official and solemn repudiation of that fatal philosophy fathered by Calhoun, which South Carolina universally taught. . . . . It seems to us that the convention is playing at this ghoulish game again. Rebellion, its birth-place in Charleston, having failed to save their cause, they have carried to Columbia and seek to preserve it there."

clared that the institution of slavery, having been actually destroyed in the State by the military forces of the United States, should no longer exist in South Carolina and its re-establishment should be forever forbidden. An amendment, designed to incorporate the simple statement that slavery had ceased to exist without attributing its abolition to any party, was offered, but failed of adoption. In addition to the question of phraseology, Mr. Blair, of Kershaw District, proposed a substitute to the amendment which had for its main object the securing of compensation to their owners for the slaves liberated. The friends of the substitute claimed that slavery had been interrupted by the war but not abolished. The whole people, once affluent, were now reduced to poverty, and as a last poor remnant of their possessions, they desired that the institution should not be yielded up without some remuneration being stipulated. South Carolina had taken the position that she had the right to go out of the Union, while the United States government argued that she did not have it. Secession, and not slavery, it was claimed, was the issue of the war, and under the constitution of the United States the convention could not abolish slavery without allowing a recompense.

In answer to this argument, Mr. Dawkins, the chairman of the special committee, proceeded to explain the basis on which they had reported the ordinance. It appeared to him that but one alternative was left for the convention to accept. Slavery had been abolished by the United States authorities, and the committee had been particular in their report to adopt such phraseology as would be least distasteful to the people of South Carolina. Nothing was expressed in the ordinance with reference to compensation and it was deemed advisable that such a provision should not be made. It might be unpleasant to surrender the institution, but it would be more unpleasant to be long subjected to military government where each military commander made laws for himself. The only mode by which they could be relieved was to adopt an ordinance that slavery did not exist in the State

and that hereafter it should not exist. The case did not admit of argument. It was their only resource and the sooner they gave their acceptance the better it would be for them thereafter.[16]

James L. Orr also spoke against the substitute in somewhat the same strain. He maintained that slavery was the cornerstone on which the Confederacy rested. The people of the North were opposed to the institution. War ensued and the whole question was submitted to the arbitrament of the sword. Nothing was left to do but accept the terms granted, and they should not hesitate in doing so. He thought compensation would be awarded them for their slaves but did not know to what extent it would be allowed. It was their duty to frame their acts in a manner acceptable to the administration. President Johnson had interposed the shield of the constitution between the South and the radicals at the North, and they should do their part to aid him in his efforts to secure civil rights to the State.[17] After this debate the substitute was voted down. The ordinance was then acted upon and voted by the convention to be inserted as a clause of the constitution. It was carried by a majority of 98 yeas against 8 nays.[18]

How to deal with the negroes as laborers, after such a great change in their condition, was a question which the convention felt called upon to consider. It was thought that some legislation was absolutely necessary for the control of the vast throng of ignorant blacks, so suddenly released from servitude. With this end in view a resolution was adopted providing for the appointment of a committee of two to prepare and submit to the legislature a code for the regulation of labor and the protection and government of the colored population of the State. It was this committee which recommended the famous "Black Code."[19]

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[16] This debate is reported in the Courier, Sept. 22, 1865.
[17] Ibid.
[18] Journal of the Convention, p. 64.
[19] Ibid, p. 103.

The question of the competency of the colored race as witnesses was in a measure considered by the convention. An ordinance was introduced that colored persons should be permitted to testify in the courts of the State in all cases where their rights of person or property were involved. A lively debate followed. All were agreed on the cardinal point that some legislation was necessary in order to provide for the admissibility of the testimony of the freedmen, but there were differences of opinion as to the mode in which this should be effected. The question was finally settled by being referred to the committee appointed to frame the code for the government of the colored population.

The convention, as recommended in the governor's message, destroyed the parish system of representation in the State senate and provided for the election of the governor by the people. A resolution was passed endorsing the administration of President Johnson and pledging coöperation with him "in the wise measures he has inaugurated for securing peace and prosperity to the whole Union."[20] An ordinance was adopted which declared in full force all acts and resolutions passed by the General Assembly since 1860, except such as related to slavery. Another provided for an election to be held October 18, for governor and members of the legislature. Another, in order to hasten the process of restoration, divided the State into four congressional districts.[21] The convention also expressed its opinion in the cases of Jefferson Davis and other Confederate prisoners. A committee was appointed to draft a memorial to the President requesting executive clemency for Jefferson Davis and A. H. Stevens, and for Governor Magrath and George A. Trenholm, held as prisoners of State.[22]

The only references to the political privileges of the negroes were in connection with the discussion relative to the destruction of the parish system. An earnest effort was made to apportion the 124 members of the lower house

[20] Journal of the Convention, p. 130.
[21] Ibid., p. 174, et seq.
[22] Journal of the Convention, p. 30.

among the election districts according to the number of "inhabitants" instead of "white inhabitants." In defending this position, a friend of the amendment said: "You have just destroyed, by overthrowing the parish system, what was deemed an unjust representation in the senate of this State, and I trust you are not about to establish a still more odious discrimination in the assembly. With what kind of consistency can you approach Congress with four representatives, two of whom are allowed you because of the negro population, and at the same time refuse to allow the very persons who give you these additional members to be represented in the general assembly of your State."[23] Upon this speech a debate followed in which negro suffrage was discussed at length. It was finally decided that the colored race was not prepared to receive political rights and the amendment was laid on the table by a large majority.

In view of the approaching election, the members of the convention signed a paper requesting Judge Orr to become a candidate for governor.[24] But his nomination, on account of the way it was made, did not meet with the approval of the people.[25] The convention remained in session fifteen days and framed an instrument which met with the approval of the President and with general commendation in the State. The constitution was not submitted to the people for ratification, but this fact was not due to any improper motive. From the beginning of the State's history, it has been held unnecessary in South Carolina to submit a constitution to popular vote. The theory is that a convention, when assembled, *is* the sovereign people, and not merely the agent of the people. Its acts are absolute and remain in force until repealed by another convention.[26]

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[23] Courier, Sept. 25, 1865.

[24] Courier, Sept. 28, 1865.

[25] Ibid., Oct. 3, 1865.

[26] The constitution of 1777 was framed by the General Provincial Congress and put into force without ratification.. So also was that of 1790. Nor was the popular approval asked on the ordinances of nullification and secession, both of which, passed by conventions, were repealed by conventions. Even the constitution of 1895, framed

The short interval of time between the adjournment of the convention and the election of governor and members of the general assembly gave little opportunity for a canvass of the State. However, there seem to have been no issues before the people except a desire to have representatives elected to Congress who would be acceptable to the President and the conservative party at the North. Considerable interest was felt in the gubernatorial race, due to the fact that many were displeased at the action of the convention in nominating Judge Orr without having authority to do so. This faction started a movement to elect General Hampton, the well known and very popular Confederate cavalry leader.[27] He was nominated in the Columbia newspapers and, although he declared that he would not be a candidate, was voted for all over the State. It was the general opinion after the election that Hampton had been chosen over Orr, but the official count showed that of the 18,885 votes cast Orr had received a small majority.

Shortly after the adjournment of the convention Governor Perry wrote to Secretary Seward, enclosing a copy of the new constitution, and inquiring when his functions as provisional governor ceased. In reply Seward congratulated him on the favorable aspect of events in South Carolina and stated that he was to continue in the exercise of his duties until relieved by express orders.

The legislature met in extra session October 28, and elected Governor Perry and ex-Governor Manning to the United States Senate. An early day was also fixed for the

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at a time when there was no need for haste and no doubt of adoption, was not submitted to the people for ratification. The single departure from this policy was the ratification of the constitution of 1868, which was framed and inaugurated largely by Northern men, who held ratification to be necessary. Constitution of 1777, p. 23; Journal of the Convention of the People of South Carolina, p. 46, et seq. See also Woodrow Wilson's The State, p. 477.

[27] Courier, Oct, 1865. The popularity of Gen. Hampton was not well received by some of the Northern newspapers. Said the editor of the New York Tribune, Nov. 15, 1865: "The rebels almost forced Wade Hampton into the gubernatorial chair, merely because such action would be a defiance to the President."

election of congressmen. During the session a telegram was received by Perry from the President urging the adoption of the Federal constitutional amendment abolishing slavery, and adding that he hoped South Carolina would not "lose all she had done and so well done."[28] Governor Perry wrote him that there was no objection to the amendment except the second section, which might be construed as giving Congress the power to legislate for the freedmen. Secretary Seward replied that the second section did not enlarge, but restrained, the power under the first section. The correspondence was laid before the general assembly and on November 13 the amendment was ratified by a large majority.[29] As the meeting of Congress was so near at hand, and as the commissions of the members had to be signed by the constitutional governor, it was decided to have the governor-elect inaugurated as soon as possible. Accordingly, on November 28, the ceremony took place. After this, all communications from the provisional governor were made through Governor Orr.

President Johnson's proclamation appointing a provisional governor for South Carolina enjoined the military commander of the department from hindering the loyal people of the State from the organization of a government. When Governor Perry entered upon his duties, General Q. A. Gilmore was in command of the South Carolina department and had troops stationed in the various towns of the State. In compliance with the President's directions Gilmore issued an order that all officers under his authority should assist the governor in carrying out the objects of his reconstruction proclamation. Nothing happened to disturb the har-

[28] House Journal, extra session, 1865, p. 68.

[29] House Journal, extra session, 1865, p. 92. On the ratification of the amendment the New York Tribune made this pertinent observation: "As for the constitutional amendment, it comes by compulsion. South Carolina will vote for it now that she may kick open the door of Congress and stand before the Speaker's chair with six votes in her hand—six votes to our shame be it spoken, that represent a power as great as Connecticut, with 8000 white men less." Tribune, Nov. 15, 1865.

mony between the military authorities and the provisional governor until, in order to facilitate the election of convention delegates, Perry ordered magistrates to administer the oath of allegiance. This assumption of power was displeasing to the sub-commanders, who overruled the order in express terms. Perry wrote to the President and the secretary of state, complaining of the action of the military authorities and stating that, if magistrates were not empowered to administer the oath, in many parts of the State the people would be deprived of voting, as the number of provost-marshals on duty in South Carolina was not sufficient to cover the State. They both telegraphed their approval of the provisional governor's course, and ordered the military authorities not to interfere further in the matter.[30]

Other complaints were lodged against the provost-marshals. In an interview with General Gilmore, Perry represented that the provost courts were taking jurisdiction in all manner of cases and that their decisions were flagrantly in conflict with law, justice and honesty. Their assumption of authority after the restoration of civil government, he said, was arbitrary and illegal. A consultation was held with General Meade, commanding the Department of the South, and the matter was settled by an agreement that in all cases relative to freedmen and persons of color the provost courts should have exclusive jurisdiction. It was further agreed that the civil courts should be opened under the provisional government and that the civil and municipal officers should be allowed to resume their official duties without interference from the military authorities.[31]

According to a number of accounts, the conduct of the colored troops was by no means calculated to increase respect for the Federal military service. Numerous reports of their atrocious acts are given. At Anderson it was said that they protected and carried off a negro who had murdered a white man. At Pocotaligo they were declared to

[30] Perry's Reminiscences, second series, p. 270.
[31] Appleton, 1865, p. 758.

have gone to the house of a white man and, after tying him, violated the women. Perhaps the most notorious occurrence of this kind was at Newberry, where Calvin Crozier, a young ex-Confederate, was executed summarily by order of the commander of the military post for resisting the intrusion of a negro soldier upon some ladies.[32] Besides these criminal acts, the colored troops were charged with demoralizing the negroes and poisoning their minds with prejudice against the whites and with false hopes of land grants.[33] Such conduct caused great uneasiness among the whites, who had been disarmed by military order,[34] and Perry became very diligent in his efforts to have the colored troops removed. He wrote Secretary Seward, detailing their misconduct, and predicting that if they were not taken away a race conflict would arise.[35] Seward at first replied that the colored as well as the white soldiers were soldiers of the United States, and that in the assignment no discrimination founded upon color could be made by the government.[36] But after continued appeals the President acquiesced, and Perry was able to announce to the convention that the negro troops had been finally withdrawn from the interior of the State and placed in garrisons on the coast where they could do no further mischief.[37]

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[32] The particulars of this affair were these: Crozier was travelling on the train with some ladies. Some colored troops entered the train at Newberry and one of them, Mills, began to embrace the white ladies. A struggle ensued and Mills was stabbed, but not mortally. Crozier was arrested, although it is said there was no evidence against him, and ordered shot by Col. Trowbridge in thirty minutes. Related in the New York Tribune, May 7, 1866.

[33] The following is an extract from a letter by the special correspondent of the New York World, July 6, 1865: "To cap the climax, bodies of half-trained negro troops are now being despatched to the various court house towns of the state to spread discontent and trouble among the freedmen everywhere. There are already alarming signs of the effect of this infamous policy. . . . . To station regiments of these freedmen, who have little of the true soldier about them save the arms and the uniform, in the midst of unarmed communities, is to jeopardize most shamefully and needlessly the lives of thousands."

[34] Ibid.

[35] S. Doc., 1st sess. 39th Cong., No. 26, p. 119.

[36] Ibid., p. 116.

[37] Journal of the Convention, p. 19.

During the latter part of his administration Governor Perry ordered the formation of militia companies to aid in keeping the peace. These companies were to act in concert with the Federal troops as a general police force, receiving their orders from the Federal sub-commanders at the different posts. In almost every district companies were formed and had great influence in quieting the negroes and relieving the apprehensions of the people.[38]

Mention has already been made in another connection of an agreement between Governor Perry and the military authorities that in all cases where colored persons were concerned the military tribunals were to have exclusive jurisdiction. This arrangement was to stand until the legislature should have met and passed a law allowing the negroes to give testimony in the courts. As civil rights were to be extended to the colored man along with his freedom steps were immediately taken, after the governmental machinery was put in operation, to define the status of the negroes in their new condition. The sentiment displayed toward the emancipated slaves does not seem, from the published accounts, to have been prompted by any spirit of revenge on the part of the whites. Indeed, it may be said that to some extent the white population felt a responsibility for the protection of the freedmen in their ignorance and destitution. This is shown in Governor Perry's first message to the legislature. He said: "The negro has lost the protection of his master and he must now be protected by the law. This is expected of you by the President and Federal Congress and will remove all pretense for military rule in the State as well as facilitate your speedy restoration to the Union and self-government. The negro is innocent of all that he has gained and all that you have lost and he is entitled to your sympathy and kindness, your guidance and protection."

The commission, authorized by the convention and appointed by the provisional governor to prepare and submit

[38] Perry's Reminiscences, second series, p. 285.

to the legislature a code for the regulation of labor and the protection and government of the colored people, made its report on October 25. The members of the commission were Judge Wardlaw and Armistead Burt, of Abbeville, two of the ablest lawyers in the State. They submitted four bills, viz.:

(1) A bill preliminary to the legislation induced by the emancipation of slaves.

(2) A bill to establish and regulate the domestic relations of persons of color, and to amend the law in relation to paupers, vagrancy, and bastardy.

(3) A bill to establish district courts.

(4) A bill to amend the criminal law.

The first bill, as its title shows, was preliminary to the second. It defined persons of color to be all free negroes, mulattoes, mestizoes, freedmen, and freedwomen and their descendants through either sex. Persons of color, although not entitled to social and political equality with white persons, were to have the right to acquire, own and dispose of property; to make contracts; to enjoy the fruits of their labor; to sue and be sued; and to receive protection under the law in their persons and property. All rights and remedies respecting person or property, which applied to white persons, were to be extended to persons of color, subject to the modifications of the next act.

The part of the second bill regulating the domestic relations of persons of color, recognized the right of negroes to marry, except that females under eighteen years and males under twenty-one years of age were declared incompetent to marry. Cohabitation or acknowledgment by the respective parties was declared to be evidence of the relation of husband and wife. The marriage of apprentices or persons bound to service by contract was declared to be unlawful until the end of the apprenticeship or term of service. The husband was forbidden under any pretext whatever to abandon his wife; and in case he should do so, or fail to maintain her and his children, he was to be bound to service

by the district judge from year to year, and the profits of his labor were to be applied to the maintenance of his wife and children.

To regulate the relations of master and apprentice, the bill provided that orphan colored children over two years of age, colored children of paupers, vagrants and convicts, and all colored children that were in danger of moral contamination, might be bound by the district judge or a magistrate, until, if males, they attained the age of twenty-one years, and, if females, eighteen years. During the term of indenture, the person to whom he was bound was to teach the apprentice the business of husbandry or some useful trade, furnish him food and suitable clothing, and treat him with honesty and discretion. If the master habitually violated or neglected these duties, or exposed the apprentice to the danger of moral contamination, upon complaint the relation might be dissolved. The master was given authority to inflict moderate chastisement upon his apprentice, and to recapture him if he departed from his service. At the expiration of his term of service, the apprentice was to have the right to recover from his master a sum not exceeding sixty dollars.

The provisions of the bill relating to contracts for service were that the hours of labor should be from sunrise to sunset, and that servants should not be absent from the premises without the written permit of the master. If the servant departed from the service of his master without good cause, the wages due him were to be forfeited. When cause for the discharge of a servant arose, the master, instead of discharging him, might complain to the district judge, who was given the power to inflict corporal punishment if satisfied of the misconduct complained of. Wages due the servant were to be preferred to all other debts, and if not paid when due the contract might be rescinded. Persons of color who wished to pursue the trade of an artisan, mechanic, or shopkeeper, or any other business besides that of husbandry, had to procure a license by the payment of ten dollars if a male,

and three dollars if a female. These fees for licenses, together with contract fees, were to go to help establish a district court fund for the maintenance of the colored paupers of each district; and if the fund was not sufficient, a yearly tax of one dollar was to be imposed upon each male person of color between the ages of twenty-one and forty-five years, and on each unmarried female between the ages of eighteen and forty-five.

In regard to vagrancy, the bill provided that all persons who had not some fixed and known place of abode and some reputable employment, all prostitutes, peddlers without a license, gamblers, idlers, keepers of disreputable houses, thieves, persons who did not provide proper maintenance for their families, persons engaged without license in any farce or sleight-of-hand performances, fortune-tellers, imposters and drunkards, should be deemed vagrants. The magistrate was given power to try these cases. He was to have the assistance of five free-holders or the aid of another magistrate. Upon conviction, the defendant was to be hired to any owner of a farm for the term of hard labor to which he was sentenced. The person receiving such vagrant was to have all the rights for enforcing good conduct and diligence as had been provided in the case of master and servant.

The third bill was recommended as a fulfilment of the constitutional provision, which directed that for each district in the State there should be established a district court, "which court shall have jurisdiction of all civil causes, wherein one or both of the parties are persons of color, and of all criminal cases wherein the accused is a person of color."[39]

By the terms of this bill persons of color were declared to be competent witnesses where their rights of persons or property were involved.[40]

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[39] Constitution of 1865, article 3, section 1.
[40] Courier, Dec. 24, 1865.

As the existing laws of the State relating to the negroes were all based on slavery, the bill to amend the criminal law simply altered the provisions of the old slave code so as to make them fit the peculiar circumstances of the freedmen.[41]

These bills were taken up by the legislature and enacted into laws on the 19th and 21st of December,[42] and constituted South Carolina's share in the "Black Code" legislation of the United States. It would be difficult to determine just what was the feeling of the whites in South Carolina towards the freedmen. The belief of the writer is that while there was a sharp division of sentiment, the prevailing attitude was not necessarily bitter.[43] Moreover, the apparent severity of the vagrancy laws can be partially explained by the fact that the general welfare of the State was thought to be endangered by the suddenly acquired freedom of a class of very ignorant people who composed more than half of the population.

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[41] All four of these bills are found in S. Doc. No. 26, 1st sess. 39th Cong., p. 175.

[42] Statutes at Large of South Carolina, Vol. VI, p. 271, et seq.

[43] See Perry's message, p. 47, above; and Hampton's speech, p. 57, note, below.

CHAPTER III.

Congressional Intervention.

The policy of restoration marked out by Lincoln and adopted by Johnson was based on the assumption that the war was fought to preserve the Union.[1] With the accomplishment of this object, involving as it did the emancipation of the slaves, which had already been effected as a war measure, all controversy was supposed to be at an end. The war had been looked upon simply as a struggle to crush the rebellion of a portion of the inhabitants of the United States and not as a conquest. The Crittenden resolution, passed by Congress in 1861, had declared that the object of the war 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."[2] The presidential view was that during the conflict the relations of the States with the Union had been interrupted and that their people had been deprived of civil government, but that, after the rebellion had been put down, the Union became again "the Union as it was." Such, in brief, was the situation considered from the conservative standpoint. The States of the South, at the end of the war, acknowledged themselves commonwealths of the Union and manifested a willingness to accept the legitimate results of

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[1] In a letter to Horace Greeley, written August 22, 1862, Mr. Lincoln said: "I would save the Union. I would save it the shortest way under the constitution. The sooner the national authority can be restored, the nearer the Union will be the 'Union as it was.' If there be those who would not save the Union unless they could at the same time *destroy slavery*, I do not agree with them. My paramount object in this struggle is to save the Union and is not either to save or destroy slavery." Morse's Life of Lincoln, American Statesmen, Vol. II, p. 107.

[2] Congressional Globe, 1st sess. 37th Cong., pp. 209, 222.

their surrender. Johnson, therefore, in obedience to the constitutional mandate that every State should be guaranteed a republican form of government, sought without delay to restore the insurrectionary States to their former relations with the general government. Accordingly, when Congress met in December, 1865, regular State governments were fully organized at the South and the one thing necessary to complete restoration was the presence of the South in Congress by her chosen representatives.

Just before the meeting of Congress the President sent General Grant on a tour of inspection through the Southern States. The purpose of the tour was to learn the feelings of the people toward the Federal government and to ascertain whether there were sufficient signs of "returning loyalty" at the South to entitle the States to representation in Congress. General Grant traveled through South Carolina and spent two days at Charleston. In his report to the President, he said: "I am satisfied that the mass of the thinking men at the South accept the present situation of affairs in good faith. . . . My observations lead me to the conclusion that the citizens of the Southern States are anxious to return to self-government within the Union as soon as possible; . . . . that they are in earnest in wishing to do what they think is required by the government, not humiliating to them as citizens, and that if such a course were pointed out they would pursue it in good faith."[3] On the basis of this report and from such other information as he had received, the conclusions of the President were that the aspect of affairs at the South was more favorable than could well have been expected. Hence he recommended the admission of the Southern representatives to Congress, saying that there was "a laudable desire on the part of the Southern people to renew their allegiance to the government and to repair the devastations of war by a prompt and cheerful return to peaceful pursuits."[4]

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[3] S. Doc., 1st sess. 39th Cong., No. 2, p. 106. [4] Ibid., p. 2.

But it was evident at the outset that Congress did not agree with the President and General Grant that the time had come to admit the Southern States to representation. It was contended that a simple ratification of the thirteenth amendment was not a sufficient proof of attachment to the Union. To vindicate their right to representation, the erstwhile rebellious States should have enfranchised their colored citizens and have provided liberally for the education of their children. They should have repudiated *in toto* the rebel debts, and have elected loyal men to represent them in Congress.[5] Hence, before allowing the Southern delegates to take their seats, both houses adopted a resolution appointing a joint committee to investigate conditions in the late insurrectionary States and to "report whether they, or any of them, are entitled to be represented in either house of Congress."

The plan which the committee adopted "to enquire into the condition of the States of the so-called Confederate States of America" was hardly calculated to reveal the true situation in the South. This is said on the ground that both sides should have had a hearing in a question where statements were so conflicting. The testimony relative to South Carolina was taken by Senator Howard, of Michigan, and none of the witnesses examined were citizens of the State. All were officers in the Freedmen's Bureau. Moreover, the examinations were held in Washington instead of in the State, where an object lesson could have been presented. General Rufus Saxton, assistant commissioner of the Freedmen's Bureau in South Carolina, was the leading witness. He expressed the opinion that in case the United States became engaged in a foreign war, South Carolinians would unanimously join the hostile government. Nine-tenths of the people of the State, he said, thoroughly hated the Federal government and the rest he termed "so-called" loyal men. In answer to a question as to the feeling of the people

[5] Congressional Globe, 1st sess. 39th Cong., p. 2.

toward Northern men he replied that the United States uniform would more likely expose a person to insult than to respect, while a man in full rebel gray could go from one end of the State to the other without receiving the slightest disrespect. He believed there were large numbers in South Carolina who would consider it no greater crime to kill an agent of the Freedmen's Bureau than to kill a negro. The late master, he said, had no knowledge of the freedman—knew less of the negro's character than any other person. Hence there was no hope for the colored man except through the care of the United States government. A. P. Ketchum, adjutant for General O. O. Howard, was the next witness. He testified that no instance had come under his observation of the renunciation by a South Carolinian of the doctrine of the rightfulness of secession. The secessionists, he said, would have nothing to do with Northern men socially, not because they were Northern, but because they (the secessionists) acknowledged in their hearts the superiority of the North and the Northern mind.

The other witnesses were J. W. Alvord, of New Jersey and Brigadier-General C. H. Howard, whose opinions agreed substantially with the views already given. The general nature of the inquiries related to the feeling in South Carolina toward the government of the United States, the probability that South Carolina would side with the enemy in case the United States became engaged in a foreign war, the attitude of Southern whites toward Northern settlers, and the extent to which the blacks were or would be recognized in the courts, in the schools, and socially.

All of the witnesses testified in a manner decidedly damaging to the Southern side of the case. It was claimed that the secessionists would readily join any movement for the destruction of the Federal government; that, although there was an expressed willingness to submit to the necessities of the situation, the sentiment toward the Union was unanimously hostile; that the Southern whites would not scruple to take the life of a negro on the slightest provocation;

and that there were among the people very few symptoms of "returning loyalty."[6] It will hardly be denied that, under the circumstances, the expectations of the investigating committee were exacting. The people of the State had accepted the constitution of the United States as their own. They had abolished slavery within their own limits and had ratified the thirteenth amendment. They had secured to the freedman the right to life, liberty, and property, and extended to him the privilege of giving testimony in the courts. There was everywhere abundant evidence of peace and obedience to the laws of the Union. By their industry and economy the people were trying to redeem their broken fortunes and restore the State to prosperity and happiness.[7] Carolinians thought this was enough to ask of them for the time being. Brave men who held convictions and who had staked their all in defence of those convictions could hardly have been expected to "lay down their spirit" immediately upon being compelled to lay down their arms. Submission on the field of battle is one thing; a sudden change of long-cherished principles quite another.

Moreover, it should not have been surprising to the witnesses to find that there was no wide-spread repentance among the former secessionists. South Carolinians could not see any great crime in having made an effort to live separate from the North. It was their right, as they thought, and they were not sorry for their attempted exercise of it. At the feet of Calhoun they had been taught that the States were sovereign, and even after their State had been left unto them desolate they could not forget the lesson.

Nor was it reasonable to suppose that, so soon after the smoke of battle, an officer in the Union blue would be received by the people with any great degree of respect. Their country was devastated, their homes were burned, their cities and villages laid waste, and their property was

[6] All the testimony relative to South Carolina is contained in the Report of the Joint Committee of Reconstruction, parts II and III.
[7] Mercury, June 14, 1867.

taken from them: all of which woes they laid to the charge of the Federal armies. The sight of the Federal uniform served but to remind them of their present humiliation as compared with their once proud position. Naturally, too, the "rebel gray" was an object of esteem among them. It represented a cause very dear to their hearts. Military heroes in all ages have been the recipients of admiration at the hands of their followers, and the fact that this was true at the South should not have been considered strong evidence of disloyalty. Wade Hampton came very near being elected governor over the "so-called loyal" candidate, not because he was a disunionist, but because he was the State's greatest leader in the Confederacy and because he was deservedly popular as a man.

As to the freedmen, it is sufficient to say that there was no considerable feeling of unkindness in South Carolina toward them.[8] The people thought that their sudden emancipation would endanger society unless stringent laws were enacted to restrain them. The testimony of one of the witnesses that the late master knew less of the negro's character than any other person is indeed remarkable when it is considered that master and slave had lived together all their lives.

The joint committee submitted its report in June, 1866. They recommended for adoption, as the result of their deliberations, two bills and a resolution proposing amendments to the constitution.

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[8] The following is part of an address delivered by Gen. Hampton at a mass meeting of freedmen in Columbia: "Last fall in an address to many of my old soldiers in Pickens District I touched upon the duty of the whites toward the colored people, and I shall read to you what I said on that occasion. . . . . 'As a slave he was faithful to us; as a freeman let us treat him as a friend. Deal with him frankly, justly, kindly, and my word for it he will reciprocate your kindness, clinging to his old home, his own country and his former master.'

"Why should we not be friends? Are you not Southern men, as we are? Is this not your home as well as ours? Does not the glorious Southern sun above us shine alike for both of us? Did not this soil give birth to all of us? And will we not all alike, when our troubles and trials are over, sleep in that same soil on which we first drew breath?" Courier, March 23, 1867.

In arriving at a conclusion as to whether the Confederate States were entitled to representation in Congress, the committee first reviewed the President's plan of reconstruction and defined the position which the insurrectionary States sustained to the Union. They recognized that it was the President's duty, as commander-in-chief of the army, to restore order, preserve property, and protect the people against violence in the rebellious states, where the people had been deprived of all civil government. But in so doing, the President was exercising only a military supervision, and his authority ceased so soon as Congress assembled. The provisional governors whom he had appointed possessed only military authority and had no power to organize civil governments.

The claim for the immediate admission of senators and representatives from the so-called Confederate States seemed to the committee not to be founded either in reason or in law. Whether legally and constitutionally or not, they did, in fact, withdraw from the Union, and made themselves subject to another government. Having been compelled by utter exhaustion to lay down their arms, the conquered rebels were at the mercy of their conquerors.

Granting the "profitless abstraction" that the late Confederate States were still States of the Union, the committee contended that it did not thereby follow that those States might not place themselves in a condition to abrogate the powers and privileges incident to a State of the Union. In their opinion it was a mockery to contend that a people who had defied the authority of the Union and refused to execute its laws should still retain the entire right to resume all their privileges within the Union, to participate in its government and in the control of its affairs.

In answer to the argument that taxation and representation should go hand in hand, the committee replied that if the so-called Confederate States had no right to throw off the authority of the United States they were bound at all times to share in the burdens of the government. The people

of the insurrectionary States had no right to complain, if, before regaining their representation, they were compelled to help bear the burden of taxation incurred by their treason.

Doubts being entertained as to whether the Federal government had the power to prescribe the qualifications of voters in a State, the committee recommended that political power should be possessed in all the States exactly in proportion as the right of suffrage should be granted without the distinction of color or race. This plan, it was claimed, would still leave the whole franchise question, where it had always been, with the States themselves.

The power of calling conventions and convening legislatures, which the provisional governors had exercised, did not belong to them. They were simply "bridging over the chasm between rebellion and restoration," and the conventions which they had called had no authority to change the fundamental laws. The President had transcended his authority in allowing the different State conventions to frame constitutions, although they were not disposed to criticize him for this assumption of power. The conventions had by no means met the requirements. In order to hasten the States' return to immediate participation in the government, they had simply amended constitutions which were already defunct. Glaring irregularities were manifest, in view of which and the failure to submit the constitutions to the people for ratification, the committee was forced to the conclusion that the so-called Confederate States had not placed themselves in a condition to claim representation in Congress.

It was competent for Congress to ignore the laws and admit the so-called Confederate States at once, but the committee did not deem it advisable to do so till a more submissive attitude was shown. The rebels should exhibit something more than an unwilling submission to an unavoidable necessity. "They should evince entire repudiation of all hostility" and give adequate security for future peace and safety.

In the light of the foregoing facts the committee rendered the opinion that the States lately in rebellion were disorganized communities without civil governments; that the representatives from these disorganized communities could not be recognized by Congress as duly elected; and that such communities should not be allowed to participate in the general government until Congress had provided in them such guarantees as would secure the civil rights of the negroes, the repudiation of the rebel debt, the assumption of the Federal debt, the enfranchisement of the negroes, and the disfranchisement of prominent Confederates.[9]

The three Democratic members of the committee submitted a minority report. Contrary to the stand taken by the majority, they contended that by the law and by the facts, the insurrection had not dissolved the Union. The connection between the States in rebellion and the general government having been undisturbed, the States were bound by all the obligations and entitled to all the privileges of the constitution. The citizens of a State might rebel and military power might be used—as had been the case—to put them down; but the illegal conduct of a portion of her citizens did not deprive a State of her right to be, and dissolve her bonds with the Union. "A State once in the Union, must abide in it forever."

The minority further charged the majority with inconsistency in its recommendation of a constitutional amendment. The claim was made that the Confederate States were entitled to no representation in Congress and were not in

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[9] The members of the Committee were:

Majority of the Committee.

W. P. Fessenden, Maine.	Thaddeus Stevens, Pennsylvania.
James W. Grimes, Iowa.	Justin S. Morrill, Vermont.
Ira Harris, New York.	John A. Bingham, Ohio.
Jacob M. Howard, Michigan.	Roscoe Conkling, New York.
George H. Williams, Oregon.	Geo. S. Boutwell, Massachusetts.

Minority.

Reverdy Johnson, Maryland. A. J. Rogers, New Jersey.
Henry Grider, Kentucky.

the Union; and yet there was a proposition to consult these States on the question of adopting an amendment to the Federal constitution. The States were in the Union for some purposes and out of it for others.

The minority further argued that after the insurrectionists had been put down the original condition of things was at once restored and the States were as completely members of the Union as they ever had been. Hence their right of representation in Congress was unquestionable. Over and above the fact that the States had not lost their character as members of the Union, they asserted that there was no internal irregularity to prohibit their representation. "We know that they have governments completely organized, with legislative, executive and judicial functions. We know that they are in successful operation. No one in their limits questions their legality, or is denied their protection. How they were formed, under what auspices they were formed, are inquiries with which Congress has no concern."

The requirements made by the President for readmission and representation, said the minority, were amply sufficient, and were complied with satisfactorily. The terms which the committee proposed to offer to the South were, by the provisions of the amendment, very unjust. The South was given the alternative of having its representation in Congress reduced or of granting the franchise to the negroes—a class in a condition of almost utter ignorance.

The Southern States could hardly be expected to ratify the amendment, and the effect would be to delay indefinitely their representation. If the committee's recommendation were accepted, the time-honored and constitutionally guaranteed right of each State to regulate its own franchise would be taken away.

The majority report of the investigating committee was accepted by Congress as the basis for congressional reconstruction. The resolution proposing what finally became the fourteenth amendment to the constitution was adopted and the amendment was submitted to the States for ratification.

Doubtless the two bills recommended would have been passed also, had not Congress adjourned before they were reached. The first bill provided that the late insurrectionary States should ratify the proposed amendment as a condition precedent to being allowed representation in Congress. The second declared certain prominent Confederates ineligible to Federal office.

The Southern States, with the exception of Tennessee, by an almost unanimous vote, refused to ratify the constitutional amendment. In consequence of this, when Congress met again in 1866, it was manifest that the radicals were ready to go the full length of openly denying to the States the right which they had always exercised of prescribing each for itself the qualifications for suffrage. The original plan of the committee had been to make it appear that this power was still left to the States, but when the work of reorganization was again resumed, all pretence to respect for this ancient principle was lost sight of. The final plan of reconstruction was embodied in an act passed March 2, 1867. It declared that no legal governments existed in the ten Confederate States, and to the end that peace and good order might prevail in those States until loyal and republican State governments might be established, the States were divided into five military districts and made subject to the military authority of the United States. North and South Carolina comprised the second district. It was made the duty of each army officer, assigned to the command of a district, to protect all persons in their rights and to suppress insurrection and disorder. The military commander might allow local civil tribunals to try offenders, but whenever he thought it necessary to organize military tribunals for that purpose all interference under color of State authority was declared null. It was provided that the rebel States should be entitled to representation when they had ratified constitutions framed by conventions whose delegates had been elected by the male citizens of the States, of whatever race, color, or previous condition; when such constitutions provided that all should

enjoy the elective franchise who had been electors for delegates to the conventions; when such constitutions were ratified by popular vote and submitted to and approved by Congress; and when the States had adopted the proposed amendment to the Federal constitution.[10]

It will be observed that, by the terms of this act, the States were left to take the initiative in regard to their restoration, only the requirements of their readmission being specified. But it became apparent to the politicians that the Southern States might prefer to remain out of the Union indefinitely and be governed by the military under the control of the President. This was exactly what the radicals wished to avoid (as restoration with negro suffrage might thereby be delayed till after the presidential election of 1868, and the radical party might fail of success).[11] Congress, therefore, having fortified itself against the President by providing that the new Congress convene immediately upon the adjournment of the old, proceeded to pass a supplementary reconstruction act on March 23. This act was designed simply to put the first act into immediate execution and to deprive the States of any voice in restoration. By its provisions, the military commander of each district, defined in the first act, was directed to cause a registration to be made of the male citizens of his district of twenty-one years of age and upwards. This registration was to include all electors mentioned in the first act except those who were unable to take a prescribed oath. This "test oath," as it was called, disfranchised not only the leaders of the Confederacy and other prominent citizens, but large numbers of the whites generally, as there were few who had not given "aid and comfort to the rebellion."

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[10] U. S. Statutes at Large, Vol. XIV, p. 428.

[11] The Mercury of Aug. 10, 1867, said editorially: "They admit that they will be defeated unless the Southern States be admitted to congress with Radical delegations which will support through thick and thin the measures of the Radical party. If the Southern States are not readmitted, or if they are not readmitted with Radical representatives, the sun of the Radical revolutionists has set forever."

After the registration, the commanding general was to appoint an election for delegates to a constitutional convention. If the constitution which this convention should frame was ratified by a majority of the votes of the qualified electors, and if it met the approval of the President and Congress, the State in question was then to be declared entitled to representation.[12]

These reconstruction acts meant complete negro enfranchisement for the South, and—since they had to be weighed in the "test oath" balance—the disfranchisement of the whites almost as complete.

That these acts of Congress were not "outside of the constitution" is a question open to argument. The claim set up by the extremists among the radicals was that the Southern States at the close of the war were conquered provinces to be treated as foreign territory and subject in all respects to the will of the North. But this theory was a contradiction to the theory which they steadily asserted, that the Confederacy was not a legitimate government. It also admitted that a nation could make war upon itself and denied the doctrine of the Supreme Court, as later announced, that "this is an indestructible Union of indestructible States."[13]

The more moderate radicals took the position that the States had not ceased to be members of the Union, but that by their acts of secession and by their armed resistance to the Federal government, they had rendered themselves incapable of exercising political privileges under the constitution. This being the case, it was the right and duty of Congress, under the clause of the constitution guaranteeing a republican form of government to the States, to reorganize the State governments.

It is the construction which Congress put upon the phrase, "republican form of government," which may be called into

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[12] Statutes at Large, Vol. XV, p. 2.
[13] Texas *vs.* White, 22 Wall., 157.

question. The powers which were claimed under it would seem to be at variance with the sense in which the phrase was understood by the framers of the constitution. According to the Federalist, this power extends no further than "to a guarantee of a republican form of government, which supposes a pre-existing government of the form which is to be guaranteed."[14] It also says that as long as "the existing republican forms are continued by the States they are guaranteed by the Federal constitution." Certainly the Johnson government in South Carolina, although not precisely the government that existed when the constitution was adopted, was established on the same principles as the original State government. And by all former views of the question, it was republican. It had been established by Union men and by those insurrectionists who had received the executive pardon. Previous to the reconstruction era, each State had determined for itself and *by itself* what was to be its individual form of government. Whatever this happened to be, Congress had recognized it as republican. In Luther *vs.* Borden[15] the Supreme Court had interposed to decide which one of two rival State governments should be recognized, but conditions in the Southern States were different from what they were in Rhode Island. There were no rival governments at the South.

If the Johnson governments were established after the historic fashion, Congress, following the precedent in the Rhode Island case, should have recognized them. In that case the government was respected "which has been recognized as the existing government of the State through all time past." However difficult it may be to define a republican government, the truth seems clear that if the Johnson governments, established by representatives chosen according to the time-honored custom, were not republican, then the governments which Congress now proposed to establish in the States at the point of the Federal bayonet, would not

[14] The Federalist, No. 43.

[15] Luther *vs.* Borden, 7 How., 1.

be republican. Nowhere did the constitution provide that Congress should have the right to say who were to be the voters in each State. This power was reserved to the people of the States. At the time of the adoption of the constitution and afterwards, each State had had different qualifications for suffrage. In some, citizens alone were entitled to vote, in others, aliens upon a short residence. In others, again, a property qualification was required. The kind of political constituency in each was a matter with which Congress was thought to have nothing to do.

The radicals showed further inconsistency in submitting the fourteenth amendment to the Southern States for ratification, while maintaining at the same time that the governments in these States were provisional only. It would seem self-evident that to allow the States a voice in amending the constitution is to admit that their governments are valid. Assuredly none but duly recognized republican governments are competent to act in so vital a matter. Sovereignty in one respect implies sovereignty in all respects. Congress virtually took the position that the Southern States under the Johnson governments were competent to vote on the amendment, but competent to vote only one way.

By appointment of the President, General Daniel E. Sickles, of New York, assumed command of the Second Military District, March 21, 1867, with headquarters at Charleston. General Sickles had been in command of the Federal troops in South Carolina during the previous year and was not a stranger to the people. His appointment seems to have been generally satisfactory so far as there could be any satisfaction under martial law. It was especially gratifying to the people that he indicated in his policy a disposition to make the burdens of military government as light as possible.[16]

The duties of the military commanders were, in general, to preserve order and conduct registrations of voters who

[16] New York Times, April 1, 1867; Mercury, March 22, 1867.

should participate in the restoration of civil government. Accordingly, General Sickles, upon assuming command, issued an order outlining the reconstruction acts and declaring his attitude toward the existing State government. Under the acts, great power was vested in the discretion of the military commanders. They had no option as to the enforcement of the acts, but the manner of enforcement was left for them to determine. Fortunately, however, Sickles did not disturb the civil polity of the State or disarrange its internal affairs. By the terms of his order the civil authorities were continued in office and the people were admonished to respect and obey them. He invited the coöperation of all citizens in the preservation of peace and order, and urged acquiescence in the new authority to the end that military intervention might be made unnecessary.[17]

Among the first acts of Sickles' military administration was a division of the State into ten districts over which he placed sub-commanders. These post-commanders were to "exercise a supervision over all magistrates, sheriffs, deputy-sheriffs, constables and police within their commands," and to hold them accountable for any violation of military orders and the arrest of guilty parties.[18]

Early in his administration, Sickles issued his locally famous "Order Number 10." This was in response to a general appeal that some provision should be made to stay the execution of judgments for debts. Owing to the destitute condition of the State after the war and the almost total failure of the crops in 1866, efforts in this direction had been made on more than one occasion by the General Assembly, but they had been ineffectual. The order prohibited imprisonment for debt, directed sheriffs to suspend for twelve months the sale of all property upon execution on debts contracted prior to December, 1860, protected advances made for the purpose of carrying on agricultural pur-

[17] Courier, April 4, 1867.
[18] New York Herald, Apr. 24, 1867.

suits and made non-enforceable judgments for debts contracted between December 19, 1860, and May 15, 1865. By the same order the carrying of deadly weapons, except by officers and soldiers in the military service of the United States, was prohibited, and the punishment of crimes by whipping, maiming, stocks, pillory or any other corporal punishment was forbidden.[19]

Another matter that demanded Sickles' attention in regard to relief was the frequent violation of the internal revenue laws. It was represented that the scanty supply of food was diminished by large quantities of corn being consumed in distilleries operated contrary to law. The whiskey tax, it was said, went uncollected. Officers of the revenue service were frequently threatened with violence while attempting to discharge their duties. In some instances, juries failed to convict persons unquestionably guilty. It was further shown that this unlawful traffic made food dearer, and tended to increase poverty, disorder, and crime. Sickles therefore ordered that the manufacture of whiskey be prohibited in his district, and that parties found violating the order should be brought to trial before a military tribunal instead of a civil court.[20]

General Sickles' policy of continuing all civil functionaries in office seems not to have been departed from in many instances. He was able to report on July 17 that not more than twelve removals had been made in both the Carolinas, and these, he said, were for positive misconduct in office. However, when a vacancy occurred or the term of an officer expired he suspended elections and made the appointments himself. Thus he appointed a clerk of the court and an ordinary for Barnwell District, municipal officers for the towns of Marion and Darlington, and five magistrates in the district of Berkley. But, while his removals were few, Sickles maintained toward the civil authorities an attitude

[19] Mercury, Apr. 15, 1867.
[20] Senate Documents, 1st sess. 40th Cong., No. 14, p. 69.

so threatening as to give considerable annoyance.[21] He claimed that he would be unable to carry out the requirements of the reconstruction acts unless he had the prompt and certain coöperation of all civil functionaries. To secure this coöperation, he let it be known that all officials, from the governor down, held their places subject to his will and that they would be dismissed from office whenever, in his judgment, dismissals were necessary for the successful execution of the reconstruction measures. Sub-commanders were instructed to keep a strict watch over all civil officers and report any misconduct to the commanding general. Sheriffs, police and other like officers were required to execute the orders of the provost marshals and any disobedience or resistance subjected the offender to trial by military tribunal, and, upon conviction, to removal from office and punishment by fine and imprisonment. This liability of the civil authorities to interference caused much uncertainty and produced considerable disorder. Sickles won the name of military dictator.[22]

The protection of the rights of the freedmen occasionally demanded the attention of the military commander. He established a provost court at Aiken to have jurisdiction over any case to which a person of color was a party, except murder, arson and rape. This court was established on the ground that justice to the freedmen could not be obtained in the civil courts. Again he caused a steamboat captain to be tried by a military court and fined heavily for not allowing a negro woman to ride as a first-class passenger with white women. He also issued orders providing that negroes should sit on juries and ride with whites on trains. Aside from these protective measures, which some thought unjust, Sickles' dealings with the colored race were commendable. In an address to a meeting of freedmen at Charleston, he said: "It will not be necessary, nor can it be otherwise than

[21] New York Herald, Aug. 1, 1867.
[22] New York World, Oct. 15, 1867.

injurious, for you to neglect your regular employments and associations to attend to political affairs."[23]

Perhaps the most conspicuous illustration of Sickles' dictatorial policy was his annulling a decree of the court of chancery relative to the distribution of some Confederate funds.[24] In the early part of 1865, a sum of money amounting to $8,797 in gold had been contributed by individuals for the purpose of remounting Hampton's Cavalry. This money had never been applied to the purpose for which it had been contributed and was left at the close of the war in the custody of the Bank of South Carolina. When suit for recovery was brought by the various claimants, the court decreed that the money should be refunded to the various contributors. By an order issued August 7, Sickles reversed the decree on the ground that the money was the property of the United States, under an act passed by Congress in 1861, providing that all property designed for use in insurrection was to be deemed "lawful subject of prize and capture wherever found." A receiver was appointed and the different claimants were called upon to surrender what had been returned to them.[25] This action on the part of Sickles was considered arbitrary, since two years before the war had been declared at an end and since neither the Confederate government nor the State of South Carolina had been known in the transaction.

The charge was frequently made in South Carolina that Sickles wished to rule as an absolute military chief.[26] The following incident would seem to indicate that the charge was not altogether without foundation. The United States Circuit Court at Raleigh, N. C., presided over by Chief Justice Chase, rendered judgments against the property of certain debtors at Wilmington. Sickles interfered to prohibit the execution of the process and the district attorney reported the fact to General Grant and the attorney-general.

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[23] Appleton, 1867, p. 691.
[24] The order is published in the Charleston Courier of Oct. 2, 1867.
[25] Courier, Aug. 9, 1867. [26] New York Times, June 7, 1867.

Grant telegraphed Sickles to modify his "Order No. 10," under which the processes of the United States courts were obstructed. Sickles wrote in explanation that "Order No. 10" protected the people from summary executions for debt and that it gave great satisfaction to the people of North and South Carolina. Grant thereupon telegraphed Sickles that he (Grant) withdrew his order to him to modify "Order No. 10," thus leaving the latter in force. At this stage the United States marshal again attempted to execute the process, but was resisted by Sickles, who insisted that his order was supreme in the Second Military District. When the matter was reported to the President, he directed the district attorney to procure an indictment against Sickles for obstructing a United States court. Sickles telegraphed Grant, denouncing the action of the President, and intimating that as commander of a military district created by act of Congress he was not amenable to a district attorney. The controversy became so sharp that the President removed Sickles and appointed General E. R. S. Canby in his place.[27]

The people of the Second Military District considered themselves fortunate in having General Canby for their commander. He was a Southerner by birth—a native of Kentucky—although he received his appointment to West Point from Indiana. His most noticeable participation in the active struggle of the war was his defence of New Mexico in the campaign of 1862, against the Confederate forces under General H. H. Sibley. After the war, as commander of the district of Louisiana, he displayed a high order of administrative ability, the wisdom and justice of his rule having been recognized by all concerned. His record had been such as to justify the belief that his administration would be creditable to himself and useful to the State. Commenting on Canby's appointment, the Courier said: "He is not, it is understood, a politician or wedded to the interests of any party organization. He has no other option than to enforce

[27] See the New York Tribune, Aug. 28, 1867.

the reconstruction acts. It is believed that he will administer these in a spirit of justice and liberality, without prejudice or passion, and with a desire only for the general welfare and for a harmonious restoration." [28]

Soon after assuming command Canby issued an order continuing in force in the district all orders which had previously been issued by Sickles.[29] His administration seems to have been generally harmonious except that the qualifications which he prescribed for jurors raised quite a disturbance in the courts. His order relative to the subject declared: "All citizens assessed for taxes and all citizens who have paid taxes for the current year and who are qualified and have been or may be duly registered as voters are qualified to serve as jurors. Any requirement of property qualification for jurors in addition to the qualification herein prescribed is hereby abrogated." [30] Judge Aldrich, presiding over the circuit court at Edgefield, declined to obey the order on the ground that it conflicted with his oath of office, which required him, to the best of his ability, "to discharge the duties of his office and preserve, protect and defend the constitution of the State and that of the United States." This oath required him further, he said, in drawing juries, to carry into faithful execution the act of the General Assembly commonly known as the jury law, passed in 1831. According to this law in South Carolina, those alone were qualified to serve as jurors who were qualified to vote for members of the legislature and who had paid the previous year a tax of any amount whatever on property held in their own right. For refusal to obey the order, Judge Aldrich was suspended from office and the State treasurer was ordered not to pay his salary.[31]

There was much dissatisfaction on account of Canby's ruling in this matter. The Courier said he had substituted his order for the laws of the State. The objections to the order

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[28] Courier, Aug. 30, 1867.
[29] New York Herald, Sept. 6, 1867.
[30] Courier, Oct. 3, 1867.
[31] Appleton, 1867, p. 698.

were that the reconstruction acts, although they did make changes upon the subject of suffrage and office, made none in reference to the qualifications for jurors. That the order excluded from the jury a large mass of the intelligence of the white people simply on the ground of their past political opinions. That while it shut out from the jury box a large number of the white race, it opened the door wide to the whole of the African race, just emerged from a condition of slavery, many of whom were ignorant and unable to read and write. That in some districts it placed the colored race in complete control of the jury box.[32] In Beaufort, for instance, by the severity with which the reconstruction clause of exclusion was construed, the registered colored voters were over two thousand five hundred, while the whites numbered but sixty-five.

Much pressure was brought to bear upon Canby with a view of inducing him to modify the provisions of the order. Governor Orr wrote the President, protesting against the execution of the order and urging that it be revoked. Canby seems to have decided later that his action was without due deliberation, and modified the order materially. His conduct in this particular was in marked contrast to the stubbornness of General Sickles and apparently operated to his credit in the estimation of the people.

Aside from registration, the foregoing is a brief account of military government in South Carolina under the reconstruction acts. It is perhaps proper to say that under the circumstances the administrations of Generals Sickles and Canby were as fair to all concerned as the times permitted.

In addition to the duty of preserving order, the reconstruction acts provided that each commanding general should cause to be made a registration of the citizens of the United States resident in his district and not disfranchised for participation in the rebellion. Accordingly, on May 8, General Sickles issued an order announcing that the registration

[32] Courier, Oct. 3, 1867.

would begin on the first Monday in July, and giving instructions with regard to the manner in which the registration would be accomplished. His plan provided that one or more boards of registration, consisting of discreet and qualified persons, should be organized in each district or city to conduct the registration and make a return to him of the lists of voters. The districts of the State were to be divided into convenient registration precincts and the boards were to visit the different places in these precincts where eligible citizens might go to be registered. The boards of registration were to remain in session at each place of meeting two days from sunrise to sunset. All applicants for the office of registrar were to be recommended by a competent Federal officer. Before entering upon their duties they were required to take an oath that they had never voluntarily borne arms against the government of the United States; that they had never given aid, countenance, counsel, or encouragement to the persons engaged in armed hostility thereto, and that they had never sought, accepted, or attempted to exercise the functions of any office under any pretended authority hostile to the United States. Of course, this oath excluded practically all the intelligent native whites.[33]

But the work of registration did not begin at the appointed time, owing to the fact that Attorney-General Stanberry's interpretation of the reconstruction acts was at variance with that of General Sickles. The former contended that the provisions of the acts did not exclude from registration certain classes of persons involved in the rebellion. Not until after the passage, July 19, of a second supplementary act were the registration regulations definitely prescribed. This act defined the proper construction of the previous acts and removed all doubts as to who were entitled to register.[34] On August 1, Sickles issued an order by which police powers were given to the boards and provision was made for the punishment of persons causing disorder at the places of

[33] S. Doc., 1st sess. 39th Cong., No. 14, p. 66.
[34] United States Statutes at Large, Vol. XV, p. 14.

registration. For the purpose of securing to the freedmen their right of registering, the order declared that if any person should suffer injury while seeking to exercise the right of registration, in addition to any penalty prescribed by law for the offence, damages should be awarded to the injured party against the perpetrator, and in case of default of payment damages should be assessed against and paid by the town or district. If such offenses were perpetrated by white persons disguised as blacks in order to escape detection, that fact was to be considered as aggravating the offense. Depriving a citizen of employment on account of his having registered was declared to be an offence punishable by the post court, and entitling the injured party to damages against the offender. Every citizen presenting himself for registry was to take and subscribe an oath that he had not been disfranchised for participation in any rebellion or civil war against the United States; that he had never been a member of any State legislature or held any executive or judicial office in any State and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that he had never taken 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, and afterwards engaged in insurrection or rebellion against the United States, or given aid and comfort to the enemies thereof. Attention was called to the fact that the act of July 19 declared that no citizen should be entitled to be registered by reason of any executive pardon or amnesty for any act or thing which, without such pardon, would disqualify him for registration. Civil functionaries were notified that they would be removed from office if they used their official influence in any manner to hinder, delay, prevent or obstruct the due and perfect administration of the reconstruction acts.[85]

[85] The order is published in the Courier of Aug. 5, 1867.

All preliminaries relative to the appointment of registrars and the assignment of precincts were completed by August 5. One hundred and nine precincts were established in the State, and a board, consisting of one colored and two white registrars, was appointed to each. The work of registration then went steadily forward.[36] The boards were required to make a second visit to the precincts in order to revise the lists secured on the first round, and to give an opportunity for registering to any who failed to exercise the privilege at the time of the first visit.

There seems to have been much hesitation on the part of the whites as to whether they should participate in the restoration of the State on the basis of the reconstruction acts. Many, in a condition of despair, manifested very little concern about registering. A letter signed by about sixty prominent men in the State was addressed to General Hampton, asking his advice as to their duty "in the important matters soon to be submitted to the people of this State."[37]

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[36] The unlettered blacks are said to have furnished a considerable fund of amusement in this new departure of registration. The following is an account found in the special correspondence of the New York Herald, Sept. 24, 1867: "Many of our new found brethren, in fact nearly all of them, had no idea what registering meant, and as a natural consequence the most ludicrous scenes transpired. Quite a number brought along bags and baskets 'to put it in,' and in nearly every instance there was a great rush for fear we would not have registration 'enough to go round.' Some thought it was something to eat; others thought it was something to wear; and quite a number thought it was the distribution of confiscated lands under a new name. . . . . All were sworn and several on being asked what was done when they were registered, said that, 'De gemblin wid de big whisker make me swar to deport de laws of United Souf Calina.'"

[37] Part of the letter reads as follows: "We have no intention to oppose the execution of any law even were it in our power; but under the reconstruction acts, certain latitude of action is left us which entails upon us entire responsibility for all consequences which may flow therefrom. We believe this responsibility to be very grave and these consequences vital to every class of our community, inseparably connected as are the interests of all. Recent events show that there is no longer a possibility of that entire harmony of action among our people for which you and we have heretofore hoped and striven. The views of the whole community are unsettled by the new aspect of affairs, and the people look to those who command their confidence for a course of action upon which all may agree who truly desire the prosperity of the State." Appleton, 1867, p. 696.

Hampton replied at some length, giving it as his opinion that every man who could should register and vote against the proposed convention. He maintained that it would be better for the State to remain under military control than to give its sanction to measures "which we believe to be illegal, unconstitutional and ruinous." He counselled friendliness and fair dealing toward the blacks, denying that they were in any way responsible for the condition of affairs in the State. If amicable relations were sustained, he said, the negroes would soon learn to trust the whites. He declared himself in favor of an impartial suffrage, and advocated a constitution conferring the elective franchise upon the negro on precisely the same terms as it was exercised by the white man. He thought a slight educational and property qualification would secure a proper adjustment of the question. In presenting his views on the suffrage, Hampton announced that he did not wish to be understood as recognizing the right of Congress to prescribe the rules of citizenship in the States. "The Supreme Court," he said, "has decided that the negro cannot be a citizen of the United States, and Congress cannot reverse that decision by an act. The States, however, are competent to confer citizenship on the negro and I think it is the part of wisdom that such action should be taken by the Southern States."[38] General Hampton's opinion seems to have been shared by other prominent men in the State. Ex-Governor Perry was especially active in urging the people to register and vote "No convention."[39]

[38] General Hampton's letter is printed in the Courier of Aug. 29.

[39] New York Times, May 22, 1867. On this subject the Courier of Aug. 6, said: "No South Carolinian, whether by birth or adoption, who is entitled to vote should voluntarily deprive himself of the right to cast it if occasion should require. He should not debar himself of this means of defence. How he shall use it or whether he shall use it is one thing. He should not, however, cast away his right to its exercise. To register can do no harm. Not to register may result in great injury. The former gives you the ballot and enables you to wield it. The latter course renders you at once powerless and deprives you of its exercise, however circumstances may demand its aid. We should not yield to indifference or surrender to despair. Each one who can should at least be prepared to do his duty by his ballot." See also an editorial, entitled "Our Necessary Course," in the Mercury, March 28, 1867.

The active work of registration proceeded without any serious interruption or tumult. By September 30 it was completed with the following result in the several districts:[40]

Districts.	Whites.	Blacks.
Abbeville	1,722	3,352
Anderson	1,801	1,398
Barnwell	1,902	3,695
Beaufort	927	6,278
Berkeley	982	8,264
Charleston	3,452	5,111
Chester	1,222	2,198
Chesterfield	1,071	317
Clarendon	754	1,552
Colleton	1,370	3,870
Darlington	1,572	2,910
Edgefield	2,507	4,367
Fairfield	942	2,434
Georgetown	432	2,725
Greenville	2,077	1,485
Horry	1,065	466
Kershaw	859	1,765
Lancaster	983	881
Laurens	1,628	2,372
Lexington	1,480	975
Marion	1,837	1,737
Marlborough	961	1,207
Newberry	1,131	2,251
Orangeburg	1,645	3,371
Pickens	2,075	851
Richland	1,236	2,812
Spartanburg	2,690	1,462
Sumter	1,190	3,285
Williamsburg	800	1,725
Union	1,426	1,893
York	2,606	2,072
Total	46,346	78,982

The foregoing table speaks for itself. It will be seen that of the thirty-one districts in the State twenty-one had negro majorities. In a few of the Piedmont districts, such as Newberry and Union, these negro majorities were doubtless due

[40] This table is taken from Appleton, 1867, p. 699.

to lack of interest on the part of the whites, as the whites have always outnumbered the blacks in the northern portion of the State. But leaving out about four districts it is safe to say that the registration included generally the male population of the State over twenty-one years of age who were able to register. It is needless to say that there was much despondency among the whites. The question which had previously been one of theory now assumed the shape of an ominous reality. The whites thought that the political supremacy of the black race would render the State unsuitable as a dwelling place for them, and many left her borders.

After the completion of the registration General Canby began preparations for an election to decide upon the holding of a constitutional convention. He issued an order announcing that on November 19 and 20 an election would be held at which all registered voters might vote "For a Convention" or "Against a Convention," and for delegates to the convention—"in case a majority of the votes given on that question shall be for a convention, and in case a majority of the registered voters shall have voted on the question of holding such convention." Boards of registration were instructed to revise the registration list, and on being satisfied that any person not entitled thereto had been registered, they were to strike the name of such person from the list. Judges of election were to be appointed by these boards. Sheriffs and other peace officers were required to be present at the polls during the two days of the election, and were made responsible for any interference with judges of election or other interruption of good order. Violence, or discharge from employment to prevent any person from voting, was to be reported by the judges of election to the post commanders, who should cause the trial of the offender by military tribunal. Barrooms, saloons and places where liquor was sold were to be closed on election days. The carrying of deadly weapons at or in the vicinity of the polling places was prohibited. Post commanders were to keep their troops well in hand on the days of election and be

prepared to act promptly if there was any disturbance of the peace. The number of delegates to the convention was fixed at 124, to be apportioned to the districts of the State in the ratio of their registered voters.[41]

Before the day set for the election the Conservative Democratic party of the State, represented by such men as General Hampton, Governor Perry, and Judge Aldrich, met in Columbia to decide upon a course of action. The supplemental reconstruction act provided that if the votes cast at the election should be a majority of all the registered voters, a majority of that majority would suffice to warrant the calling of the convention. Assuming that a majority of the votes cast would be for the convention—the registered negroes outnumbered the registered whites almost two to one—it was seen that votes cast *against* the convention would tell *in favor* of it as helping to make up a majority of all the registered voters. Without this majority actually voting, whether *for* or *against,* the convention could not be held. The proper policy, then, for all registered voters who were opposed to the convention was not to vote at all at the election. The Conservative Democrats, desiring to defeat the convention, decided to advise this course, and it was adopted almost uniformly by the white people throughout the State. This was the policy of "masterly inactivity." As usual it called forth some vigorous comment from the Northern press.[42] No action was taken in the matter of nominating delegates to the convention. Before adjourning an address was issued to the people, in which the whole policy of the general government was con-

[41] Printed in the Courier of Aug. 18, 1867.

[42] The New York Herald, in an editorial of Dec. 17, 1866, had this to say: "It is apparent that their ruling classes have settled down into a dogged resolution to do nothing to help themselves into a readmission into Congress. They have fallen into the serious mistake that if they do nothing, Congress can do nothing with them. But let South Carolina understand that by this policy of 'masterly inactivity' she may be merged by Congress as part of a vast unorganized territory into the new territory of North Carolina, and she will be apt to realize the dangers of doing nothing to regain her character and to retain her boundaries as a State."

demned in unmeasured terms. The closing paragraph of the address read: "Free negro labor, under the sudden emancipation policy of the government, is a disaster from which, under the most favorable circumstances, it will require years to recover. Add to this the policy which the reconstruction acts propose to enforce and you place the South politically and socially under the heel of the negro; these influences combined will drag to hopeless ruin the most prosperous community in the world. What do these reconstruction acts propose? Not negro *equality* merely, but negro supremacy. In the name, then, of humanity to both races; in the name of citizenship under the constitution; in the name of a common history in the past; in the name of our Anglo-Saxon race and blood; in the name of the civilization of the nineteenth century; in the name of magnanimity and the noble instincts of manhood; in the name of God and nature, we protest against these acts as destructive to the peace of society, the prosperity of the country and the greatness and grandeur of our common future. The people of the South are powerless to avert the impending ruin. We have been overborne, and the responsibility to posterity and to the world has passed into other hands." [43]

Previous to the meeting of the Conservative Democrats, a convention of the Union Republicans had been held at Columbia. They claimed that their convention was the first ever held by the *people* of South Carolina. A considerable majority of the delegates were negroes, while most of the white delegates were officers in the Freedmen's Bureau, attachés of the Federal government and Northern adventurers who had drifted into the State. They adopted a platform expressing their entire and cordial sanction of the recent action of Congress, and setting forth some of their leading principles on political matters. They favored a uniform system of free schools open to all. They con-

[43] Published in the Courier of Nov. 9, 1867.

demned the policy of President Johnson as unjust, oppressive, and intolerable, and pledged themselves not to support any candidate for office who would not openly endorse the principles adopted by the Union Republican party.[44]

The election to decide on the question of calling a convention was held on the 19th and 20th of November, with the following results:[45]

Registered voters in the State			125,328
Votes cast			71,087
For a convention	whites	130	69,006
	blacks	68,876	
Against the convention—all whites			2,081

The above figures indicate how almost completely the whites ignored the election. Nearly all the votes cast were cast by the negroes and in favor of a convention. The one hundred and thirty whites who voted for the convention practically represented the whole white Republican vote in the State at the time.

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[44] The proceedings of the Republican convention are published in the Courier of July 28, and 29, 1868.

[45] Appleton, 1867, p. 700. For the vote by districts, see the New York Tribune, Dec. 9, 1867.

CHAPTER IV.

The Beginnings of the "Carpet-bag Regime."

The question of holding a convention having been decided by the election, the delegates from the several election districts of the State assembled by order of General Canby[1] at the club-house in Charleston, January 14, 1868, to frame a new constitution. The assembly was composed of fifty-one white and seventy-three negro members; and in its personnel, perhaps there have been amongst civilized peoples, few law-making bodies to be compared with it. It was alluded to by the newspapers by such names as the "Great Unlawful," the "Congo," and the "Ring-Streaked and Striped Negro" convention.[2] An analysis of the elements of the convention will result in this general classification: (1) native whites without distinction or reputation; (2) ex-Federal officers; (3) adventurers in search of promotion or plunder; (4) negro lawyers and missionaries; (5) former slaves. Only twenty-three of the white delegates were *bona fide* citizens of the State. Among these were F. J. Moses, Jr., who as aid to Governor Pickens had helped to haul down the Union colors at Fort Sumter, and who afterwards became a very corrupt "scalawag" governor; Camp, a "moonshiner" from Spartanburg, who shortly before his election to the convention had been "broken up" for illicit whiskey distilling; T. J. Robertson, who had grown rich as a war speculator and who afterwards became United States senator; C. C. Bowen, who had been accused of bribing a man to assassinate a Confederate officer, and tried for murder;[3] J. M. Rutland, who after the Brooks-Sumner episode in the United States Senate, made up a purse to buy a cane for Brooks, but afterwards became a strong unionist. Seven

[1] New York Tribune, Jan. 3, 1868. [2] Mercury, Feb. 1, 1868.
[3] The Charleston Republican, Feb. 10, 1871.

of the white delegates had been Confederate soldiers. The "carpet-bag" element was especially prominent in the convention. The most conspicuous members of this class were Niles G. Parker and D. H. Chamberlain, of Massachusetts, who afterwards held the offices of state treasurer and governor, respectively. Other "carpet baggers" were C. P. Leslie, New York, formerly in the internal revenue bureau; G. Pillsbury, vice-president of the Union Leagues in the State; and J. K. Jillson, whose best claim to notoriety came through the fact that he had married a negro woman. There were some able non-resident colored lawyers in the body, among whom may be mentioned J. J. Wright, L. S. Langley and W. J. Whipper. Whipper was a man of decided ability and was afterwards elected judge, but was not permitted to serve.[4]

Of the one hundred and twenty-four delegates, forty-four were foreigners so far as the State was concerned. Massachusetts contributed nine delegates; North Carolina, four; Pennsylvania, two; several other States, one each. There were also members of the convention who were from Denmark, Ireland, Dutch Guiana, and other foreign countries.[5] One account gives the number of preacher delegates as seven. The most prominent of these were R. H. Cain,

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[4] Sketches of the delegates to the convention are given in the New York Times, Jan. 23, 1868, and in the New York World, April 10, 1868.

[5] The New York World of April 10, 1868, gives the following table showing the residence of the delegates:

Whites.		Negroes.	
South Carolina	23	South Carolina	57
North Carolina	3	Pennsylvania	2
Georgia	1	Michigan	1
Massachusetts	7	Georgia	1
Connecticut	1	Tennessee	1
Rhode Island	1	Ohio	1
New York	1	North Carolina	1
Other Northern States	5	Virginia	1
England	2	Massachusetts	2
Ireland	1	Dutch Guiana	1
Prussia	1	Unknown	5
Denmark	1		73
Unknown	4		
	51		

colored, afterwards a member of Congress; and B. F. Whittemore, white, of Massachusetts, later elected to Congress, but turned out for selling West Point cadetships. Fifty-seven of the seventy-three colored delegates had, three years before, constituted part of the slave property of South Carolina, and it is needless to say that illiteracy was one of their chief characteristics. The most famous native negro in the convention was Beverly Nash, of Richland District. He had been a hotel porter in Columbia, but after the war turned his attention to oratory and soon attained political prominence.[6]

The convention was called to order by Timothy Hurley, of Berkeley District, who moved that T. J. Robertson be requested to act as temporary chairman. The motion was carried and Mr. Robertson, on taking the chair, made a short address, in the course of which he said: "It becomes us to frame a just and liberal constitution that will guarantee equal rights to all, regardless of race, color or previous condition. I trust there will be no class legislation here. I hope we will act in such a manner as will reflect credit upon ourselves and secure the confidence of the people of the State whom we represent."[7]

The chair ruled that the possession of General Canby's military order was sufficient evidence of membership in the convention, and that ninety-two members having responded to the roll-call, it was unnecessary to go into any further investigation as to credentials.

A. G. Mackey, collector of the port at Charleston, was chosen president of the convention, and C. J. Stolbrand, secretary. These two officers were white; the assistant secretary, engrossing clerk, sergeant-at-arms, doorkeeper, and messengers were colored.

The same writer called attention to the significant fact that in a body purporting to be a South Carolina convention, but one man in five, or twenty-three out of one hundred and twenty-four was a legitimate voter of the State.

[6] Nash afterwards became State Senator, and was known as a $5000.00 man, that is, he was said to have asked that amount for his vote on certain bills.

[7] Journal of the Convention, p. 6.

Contrary to what might have been expected, the temper of the convention, among the negro members especially, was at first very moderate. President Mackey said, upon taking the chair, that he entertained no vindictive feelings toward those of his fellow citizens who, through the influence of their political leaders, had been lead to entertain erroneous sentiments. He was opposed to all confiscations of property, and to any general disfranchisement of the masses of the people. If it would not endanger the safety of the nation he favored a general amnesty.[8] To illustrate further the moderation with which the convention started off, when the question of electing a chaplain came up several members expressed themselves as strongly opposed to "digging unnecessarily into the State treasury." This item of expense was avoided altogether and the duty of chaplain was performed by the several white and colored ministers in the body. This economy in the use of the people's money was in marked contrast to the subsequent record of these same founders of the Republican party in South Carolina.

Quite a lively discussion arose early in the session over a resolution proposing to invite Governor Orr to address the convention. Some opposed the resolution outright, others favored it only after the word "Provisional" had been inserted before the word Governor.[9] But despite the oppo-

[8] Journal of the Convention, p. 16.

[9] Said Beverly Nash: "I want to say, Mr. President, that I am opposed to the resolution inviting Governor Orr to address this convention. I am opposed to men of his stripe exercising the privilege of free speech inside of the hall. We didn't come here to see Governor Orr make a flight like a squirrel from one tree to another. I remember he said to me last spring, 'better wait and find out whether there is going to be a failure or not; don't jine the Republican party yet; don't jine the Democratic party.' He wanted me to sit on the fence with him, and when he got ready to make one of his flights I suppose he wanted me to follow him. No, gentlemen, I don't propose that Governor Orr come here to teach us ground and lofty tumbling. I come from a part of the country where the people are Republican; from a district where the people would rather hear Governor Perry any time, because we know he is going to cuss us and abuse us every way he can; but Governor Orr! why, he tumbles so fast it makes a man's head 'dizzie' to look at him." Journal of the Convention, p. 33.

sition, Governor Orr was invited and improved the occasion to offer the convention some very timely advice. He did not hesitate to say that the convention was representative of only the colored population of South Carolina; but the intelligence, wealth and refinement of the State had no voice in its deliberations. He therefore all the more earnestly recommended wise and moderate action on the part of the delegates, and suggested some of the features which he considered most essential in the new constitution.

He urged the removal of all political disabilities from the white citizens in these words: "Those of you who are to the manor born know the fact that very few white men in South Carolina abstained from some participation in the late war. You know further that the intelligence, wealth, and virtue of South Carolina entered eagerly into that war, and that when it is attempted to disfranchise or denounce these persons as unworthy of public trust, it is to exclude the real intelligence and experience of the State from her councils."

In regard to the election franchise, he advised an educational or property qualification, applicable to blacks and whites alike.[10]

A matter that early engaged the serious attention of the convention was the perfecting of ways and means for the payment of the per diem and mileage of the delegates. The reconstruction acts provided that the expenses of registration were to be met by the Federal government, but the State itself was left to defray the cost of its constitutional convention. For this purpose the acts declared that the convention should levy and collect a tax, and not use the money of the State treasury.

The finance committee reported a recommendation that the convention pledge the faith and credit of the State for the redemption of the $500,000 of bills receivable authorized by a previous act of the legislature, and that the members

[10] Journal of the Convention, p. 45.

accept these bills in payment for their services.[11] For the benefit of those who were not willing to be paid in State bills, and insisted on the immediate levy of a tax to be paid in greenbacks, it was pointed out that the collection of such a tax in a time sufficiently short to meet the needs of the convention was not possible. To overcome the difficulty under which the convention labored of not being able to use the money in the State treasury, the committee recommended the passage of an ordinance requesting the commanding general to issue orders from time to time upon the treasury for the payment of such sums as might be necessary to defray the current expenses of the convention. The ordinance further provided that the revenue from a tax, to be levied and collected at a convenient time under military order, should be deposited in the State treasury to replace the advances made to the convention. This tax was to be laid on all real estate; on articles manufactured for sale during the year 1868; on buggies, wagons, carriages, omnibuses, gold and silver plate, watches, jewelry and pianos; and on every person keeping a dog or dogs. At the different rates which were fixed upon these items, it was thought the tax would amount to $75,000, the sum estimated as necessary to defray the expenses of the convention. The per diem of the members was fixed by the ordinance at nine dollars for each, and the mileage at twenty cents per mile to and from Charleston.[12]

The convention was occupied a week in discussing the report of the finance committee. The recommendation that members be paid in the bills receivable of the State proved to be a severe strain upon the patriotism of not a few of the delegates, although they all asserted that they did not come to the convention to make a fortune. The chairman of the committee argued that the members should show a willingness to take the State bills, thereby enhancing their value and establishing the credit of the State. This appeal, how-

[11] Journal of the Convention, p. 155.

[12] Ibid., p. 154.

ever, does not seem to have been very effective. There were those in the convention who would be paid in nothing but Unitd States currency, and if such currency could not be obtained in time by taxation, then they demanded that bonds be issued and sold for greenbacks. But the argument was advanced that if the bonds of the State were put upon the market they would not bring ten cents on the dollar. When it was found that the clamor for greenbacks was useless, the members proceeded, as a last resort, to vote an increase from nine to eleven dollars per day in their salaries. The valuable time consumed and the spirit manifested in this debate would indicate that the delegates of the convention were more concerned with what they were to receive for their services than they were in framing an instrument of government for the State.[13]

As none of the influential newspapers of the State were in sympathy with the convention and its objects, the need of an organ to uphold the Republican cause was strongly felt by the leaders of the new party.

An effort was made to supply this need by electing a man to do the convention printing who had agreed, in the event of his election, to establish a Republican newspaper. The fact that the convention was without an organ and that the conservative papers manifested a spirit, if not hostile at least indifferent, seems to have caused some opposition to granting the privileges of the floor to the press representatives. The Courier and the News seldom alluded to it editorially, and published simply the daily proceedings as furnished by the convention's reporter. But from the very beginning of its sessions, the convention had been the object of many scathing attacks by the reporters and editors of the Mercury, and the proceedings indicate that there was considerable wincing under the severe lampoons of the individual members.[14] One delegate said he would not have

[13] Journal of the Convention, p. 204.

[14] The following are specimens of characterizations of different members of the convention by the Mercury in its issue of Feb. 5,

been slandered as he had been by the Mercury since coming to the convention for five hundred dollars per day. The comments became so distasteful, that the reporter of the Mercury was openly assaulted by E. W. M. Mackey, a son of the president, who had gone up to Orangeburg and had himself elected a delegate. After this digression, a debate of some length occupied the attention of the convention. Finally, a resolution was offered by D. H. Chamberlain denouncing the Mercury as a scurrilous and libelous sheet, and excluding its editors and reporter from the convention hall.[15] Although many declared that they were in favor of free speech and a free press, the resolution was adopted by an almost unanimous vote.

Many other subjects occupied the time of the convention before the real work of framing a constitution was taken up. Thus a debate arose over the adoption of a resolution which denounced the former ruling class and declared that the safety of the government demanded the speedy removal of the officers of the State government.[16] Another resolution

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and subsequently: "Joseph Crews—Is a white man well known to many merchants in Charleston who have had occasion to regret his acquaintance.

"S. A. Swails—Is a very light mulatto with scarcely any of the features characteristic of the negro race. He sports a thick black mustache and when sober would make a good looking bandit.

"C. P. Leslie—White, hails from Brooklyn, N. Y. Obtained money under false pretences. His wife in New York wrote that he had run off and left her in a destitute condition. . . . He expresses a great contempt for the negroes on all occasions and speaks sneeringly of his co-delegates in debate. One sable delegate threatened to knock him down if he called him Daddy again, but Leslie merely laughed at him, repeating the epithet immediately."

[15] Journal of the Convention, p. 187.

[16] Ibid., p. 71. Later in the session, T. J. Robertson introduced a resolution to petition General Canby to abolish the district courts and dismiss the judges. His remarks in behalf of the resolution would seem to indicate that he was bidding for the patronage of the negroes. He said: "I know that most of the judges of the district courts elected by the legislature of 1865, are unfriendly to the colored people and opposed *in toto* to the reconstruction acts of Congress. Their prejudices are so bitter that it is impossible for the colored man to obtain justice. These courts are now in session in the different country districts every week, and colored persons are being tried, convicted and sent to the penitentiary on the most

was introduced which recommended that the convention take necessary action to expunge from the vocabulary of South Carolina such epithets as "negro," "nigger," and "yankee."

An ordinance to annul contracts and liabilities where the consideration was based on the purchase of slaves, engaged the attention of the body for some time. Whether favoring or opposing the ordinance, all could agree in denouncing the right of property in slaves. A great deal of eloquence was expended by the different delegates on the punishment due to former slave owners. One delegate said: "A few years ago the popular verdict of this country was passed upon the slave seller and the slave buyer, and both were found guilty of the enormous crime of slavery. The buyer of the slave received his sentence, which was the loss of the slave, and we are now to pass sentence upon the seller. We propose that he shall be punished by the loss of his money." [17] Those who stood for the resolution said, "let the creditor take the consequences of his rebellion:" those who opposed it said, "let the debtor fear the penalty." Since each side put forth in part the same argument, viz., the impossibility of property in man, the question turned only on the passage of a law violating the obligation of contracts. This obstacle did not long stand out against the great moral rebuke which the convention felt was needed to be administered to the former slave owners, and the ordinance was adopted by a large majority.[18]

A subject receiving special attention was a resolution petitioning Congress to lend the State one million dollars to purchase lands for the colored people. This measure was known to be very popular among the negroes, who expected

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trivial offenses. It is upon these grounds in performance of what I feel to be my duty, that I have drawn a petition requesting General Canby to abolish the district courts of the State." The resolution was unanimously adopted. Journal of the Convention, p. 358.

[17] Speech of R. B. Elliott, Journal of the Convention, p. 227.

[18] The vote stood, yeas 95, nays, 19. Journal of the Convention, p. 248.

that, in addition to their freedom, the government was going to give each of them forty acres of land and a mule. Those who spoke against the resolution openly denounced the promoters of the scheme as acting from political motives and as deceiving the colored people by raising expectations that could not be realized.[19] In vain did opposition insist that Congress would not listen to such an appeal; that the effect of such a petition would be to cause the laborer to quit his employer in the expectation of soon possessing a farm of his own. The friends of the measure, relying perhaps upon the generosity of Congress as displayed in the Freedmen's Bureau, pretended to think their request would be granted for the asking. "Help the colored man," became the cry. F. J. Moses, Jr., a candidate for Congress, in the course of a lengthy speech, said: "How do you propose to reconstruct the Union. There are a thousand ways of picking up the broken fragments and reconstructing a vessel, but

[19] In an able speech on the question, C. P. Leslie said: "But that was not the real question (no money in the United States treasury) before the house. The real question, when practically stated is how far the Republican party of South Carolina will tolerate demagogism. That was the question in one of its phases. Another phase was how much political capital could he (the owner of the petition, Rev. R. H. Cain, colored), make out of a measure that everybody and the world knew would not bring a dollar for the relief of the people. If the owner of the motion had, in his argument in support of the measure, shown that there was a reasonable probability that the loan could be obtained if the petition passed the convention, I would not have said a word. But his argument was an appeal to the passions of the colored people of the State. He undertook to hold out to them the probabilities of their getting land and told them they were entitled to it, that it was just they should have it. He saw among the crowd of spectators behind the railing the artisans, the working men; he saw the laborers and farmers and he appealed to them and their passions, and not to the good sense of the house. It then became clear to my mind that the member from Charleston (Rev. R. H. Cain), from the way he handled the subject, proposed to make political capital for himself, and had he not taken that course I would not have said a word. I am sorry to see that a delegate from Charleston, who stands so well, so high in the community both for respectability and honor, whose motto is to do right 'though the heavens fall,' a man so intelligent as he is, offer a resolution or petition upon which he knew not one dollar could be obtained, and that it was offered only for political effect." Journal of the Convention, p. 389.

how do we propose to do it? Do we propose to build it up on a solid foundation, that shall resist the storms of ages; or do we expect to patch up here and there, to build up with men not devoted to the government whom the government has merely freed to put in a worse condition than before? There is but one way of making a man love his country: I love my country town, I love the house I live in, the land I live on, the sand I walk on; because in that sand, in that house, in that town, I have an interest. I have an interest in the wealth and prosperity of the State. You cannot make citizens out of these people unless you give them those things which make men citizens. I say you must bind them to the government with ties that cannot be broken. Give them land; give them houses. They deserve it from the people of South Carolina. They deserve it for protecting the families of those who were away from their homes during the late war."[20] Other speakers followed in the same strain. "Let the large estates of the whites be divided," said F. L. Cardozo, "and the poor colored people will have a better opportunity of buying lands."[21]

The debates on this question were very bitter and of a nature calculated to arouse the prejudice of the negroes against the whites. The charge was common that the whites received more aid from the Bureau than the blacks and that the negro had a right to share the white man's lands. It

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[20] Journal of the Convention, p. 433.

[21] Ibid., p. 405. In the same connection R. H. Cain said: "After fifty men have gone on a plantation, worked the whole year at raising twenty thousand bushels of rice, and then go to get their one-third, by the time they get through the division, after having been charged by the landlord twenty-five or thirty cents a pound for bacon, two or three dollars for a pair of brogans that cost sixty cents, for living that cost a mere song, two dollars a bushel for corn that can be bought for one dollar; after, I say, these people have worked the whole season, and at the end make up their account, they find themselves in debt. The planters sell their cotton, for it is said that the negro has not brains enough to sell his own cotton. He can raise anything; he can dig ditches, pick cotton, but has not the sense to sell it. I deprecate that idea. I would rather see these people have little cottages and farms for themselves." Journal of Convention, p. 423.

was charged that this electioneering scheme of arraying the negroes against the whites was regularly adopted as a part of the political tactics of the Republican party in South Carolina. The blacks, peaceable when let alone, were easily influenced by the politicians, who cared naught for the welfare of the State or of the negro, except as he ministered to their aggrandizement.[22]

Two topics which demanded perhaps the largest amount of attention of any treated by the convention were, first, a resolution petitioning General Canby for a temporary stay of sales on execution for a period of three months, and, second, the passage of a "stay law" to be effective after the ratification. The leading supporters of the first measure were R. C. DeLarge, W. J. Whipper, and F. J. Moses, Jr.; T. J. Robertson, R. H. Cain, and F. L. Cardozo were the principal opponents. The debate on the resolution was characterized by much bitterness and many personal allusions. T. J. Robertson said: "I for one am willing to see the property of the country, if necessary, change hands, and if lands are sold cheap, so much the better for the working man. The men asking relief, with but few exceptions, are those who do not recognize the validity of the reconstruction acts of Congress. Some of them call this convention a menagerie, a collection of wild animals. Is this menagerie to protect their property at the expense of the legal citizens and the working men of the country, or are we to obey the laws which recognize no such measures?"[23] But the de-

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[22] In order to make such measures as these appear more ridiculous, one white delegate offered the following: "Resolved, That of one blood are made all the nations of the earth; that the poor shall be always with us; that the hungry shall always need food; the naked clothing; the landless, land; the homeless, homes; the moneyless, money; in fine, that all future legislation shall be for the interests of humanity, for justice and protection to the poor, for justice and security to the rich." Mercury, Feb. 1, 1868.

[23] Journal of the Convention, p. 106. R. H. Cain was equally as vindictive. Extracts from his speech are as follows: "The right of the poor man is equally as sacred to the convention or the commanding general as the right of the rich man. The large landholders have been for years the recipients of all the benefits from

fenders of the resolution were equally zealous. They accused the opposition with trying to defend the measure for purely personal motives and with a view to filling their own coffers. They said that the harangues in the interest of the poor man were simply for effect, and denied that any further impoverishment of the rebels would result in good to any class.

Whipper, who made the ablest speech that was delivered in behalf of the resolution, said: "I hope there is not a man in this body, whatever may be his course, who will suffer himself to be swayed by passion or prejudice. I hope whatever you do here you will do it feeling that it is for the good and for the best interest of the people you represent. I hope it will not be done as a measure of punishment to a people already punished too severely. Whatever you do, above all do I hope it will not be done for the purpose of revenge."[24]

After a four days' debate, the resolution passed the convention by a majority of five.[25]

The second measure of relief, known as the "stay law," provoked a discussion similar in its nature to that which was brought out by the resolution just mentioned. It was long under consideration and was not adopted until the last day of the session. It provided that execution on judgments already rendered should be for only one-tenth of the amount due, and that other executions for proportional amounts

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these lands. They entered heart and soul into all acts of rebellion. They have made their money; they have amplified their domains by virtue of speculations in lands. They are that very class of men who have been standing out against the government, against the constitution. These men have sacrificed money and time to defeat the assembling of this convention. Ought they not, therefore, to be compelled to pay their honest debts. They run out into the great sea of speculation, they run the hazard of the die and should take the consequences. I am for the well being of the State but I do not believe that in the passage of such an act the poor man will be benefitted. I believe it will result only to the benefit of those who have their large, broad acres, the rich and the luxuriant, who once rode in their carriages, who made the war which has brought them to destruction."

[24] Journal of the Convention, p. 129.

[25] Ibid., p. 148.

should be issued, from year to year till 1872, when the law would become inoperative.

The qualifications of electors was, of course, the vital question before the convention. The committee on franchise and elections recommended that every male citizen of the United States of the age of twenty-one years and upwards, without distinction of race, color, or former condition, who had been a resident of the State for one year should be entitled to the franchise; "Provided, that every person coming of age after the year 1875, to be entitled to the privilege of an elector, shall be able to read and write; provided, further, that no person shall be allowed to vote or hold office who is now or hereafter may be disqualified therefor by the constitution of the United States, until such disqualification shall be remedied by the Congress of the United States; but the General Assembly shall have power to remove such disability by a two-thirds vote."[26] But this effort to incorporate an educational qualification, effective after 1875, failed by a vote of 107 to 2,[27] and a section was inserted in the franchise article, which forever prohibited the passage of any law depriving citizens of the right of suffrage.[28] The severity of the second proviso was increased by the clause being stricken out which gave the General Assembly the power to remove the political disabilities of the whites. Thus the right of manhood suffrage was extended universally to the colored race, while the restrictions under which the whites were already placed were left unchanged. The result of this action was, of course, to leave the State entirely in the control of the negroes.

Another important clause in the constitution provided that all the public schools, colleges, and universities of the State should be open to all of the children and youth of the State regardless of race or color.[29]

The insertion of a clause in the constitution providing for a homestead law was one of the chief features of the

[26] Journal of the Convention, p. 824.
[27] Ibid., p. 834.
[28] Ibid., p. 839.
[29] Ibid., p. 889.

session. The section containing the law first called for a homestead exemption of one hundred acres of land in the country, or town property to the value of two thousand dollars.[30] There seemed to be none who opposed the law in principle, the only difficulties being to decide on the amount to be exempted from execution and whether or not the law was to be retroactive in its operations. This latter difficulty, however, did not trouble any but a few of the wealthy delegates. T. J. Robertson offered an amendment that no homestead should be exempt from levy for any just debt existing "prior to the passage of this constitution." He claimed to favor the law as applied to the future but contended that to exempt property already involved would be to pass an *ex post facto* law, which they had no authority to do.[31] But the convention did not favor this amendment, and the section passed as it was first reported. The debate on this measure was unusually prolonged and was characterized by a great display of oratory.[32]

Several noteworthy ordinances, besides those already mentioned, were passed. One repealed "all acts and pretended acts" of the legislature, passed since 1860, which pledged the faith and credit of the State for the benefit of any corporate body.[33] Another provided that at an election to be held April 14, the constitution should be submitted for ratification, and that at the same time an election should be held for members of the legislature, governor, and other State officers. Others provided for the organization of the General Assembly and inauguration of the governor on May 12, for the ratification of the fourteenth amendment to the Federal constitution, and for the election by the General Assembly of two United States senators.[34] Also, a resolution was

[30] Journal of the Convention, p. 452.

[31] Mercury of Feb. 10, 1868.

[32] The Journal, p. 476, contains the following: "Here Mr. Leslie was so overcome by his feelings as to burst into tears and sat down amidst intense silence, having evidently enlisted the warmest sympathies of the members of the convention."

[33] Journal of the Convention, p. 872.

[34] Ibid., p. 904.

adopted petitioning Congress to remove all political disabilities from the citizens of the State.

The convention adjourned on March 17, having been in session fifty-three days.

On March 13, General Canby announced that the convention had framed a constitution and proceeded to issue an order for holding an election on the days fixed by the convention ordinance. This provided that all the registered voters of the State might vote "For Constitution" or "Against Constitution," and also "on the same ballot for the State officers and members of the House of Representatives specified in the aforesaid ordinance." The boards of registration were instructed to revise, for a period of five days, the registration lists, and upon being satisfied that any person not entitled thereto had been registered, to strike the name of such person from the lists. The names of all persons who possessed the qualifications required by the acts and who had not already been registered, were to be added to the lists. In deciding who were to be stricken from the lists, the attention of the boards was especially directed to the supplementary reconstruction act of July 19, 1867. In order to secure a full vote at the election, it was ordered that a voter who had resided in a district for ten days might vote upon presentation of his registration certificate, or upon his affidavit that he had not already voted during the election. All judges and clerks employed in the election were required to "take and subscribe the oath of office prescribed by the law for officers of the United States." No member of the board of registration who was a candidate for office was allowed to serve as a judge or manager of election. The same regulations were laid down for the preservation of order as were prescribed for the election to decide upon the holding of the constitutional convention.[85]

Ten days later Canby issued another order, giving further details regarding the revision of the registration lists and the conduct of the election. Civil officers were instructed

[85] The order is printed in the Courier of March 16, 1868.

to render such services as were required in posting and serving notices. Registrars, by becoming candidates for office, were not to be disqualified for continuing to act as registrars. Wherever vacancies occurred in the registration boards, the post comanders were to fill them and report their action promptly to the commanding general.[36]

On information received from different sections of the State and from members of both political parties that combinations had been formed to prevent, delay, or hinder persons from exercising their rights at the coming election, General Canby issued another order on April 6, giving warning that any attempt to interfere with the election would make the offenders amenable to all the penalties of the law. If at any polling place the ballot boxes should be destroyed, or if the electors should be prevented by intimidation from voting, a new election was to be ordered for that precinct. To the end that election officers might be protected in the discharge of their duties and that voters might be protected in the exercise of the franchise, post commanders were authorized to station military commissioners at places remote from their headquarters. These commissioners were to have troops at their disposal and were empowered to exercise a general police authority during the election. All arrests made by the commissioners were to be reported to the commanding general for his decision as to whether the offenders were to be tried by a military tribunal or be brought before a civil court. All persons, whether in authority or not, were required to obey and execute all lawful orders of the military commissioners.[37]

From these regulations it is seen that General Canby spared no pains to poll the largest possible strength of the registered voters. In this regard, at least, he enforced the reconstruction acts to the very letter and by every means at his command. The bitterest radical could not have found reason to complain of his methods.

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[36] Courier, March 24, 1868.
[37] Ibid., April 7.

Some time before the adjournment, the members of the constitutional convention resolved themselves into a Republican nominating body and placed candidates before the people for the State offices. With one exception the nominations were made from the delegates to the convention. T. J. Robertson and General R. K. Scott were the candidates for the gubernatorial nomination. Scott was chosen, and, his nomination being endorsed by Robertson, the convention adopted a resolution pledging their support to Robertson for the position of United States senator. General Scott was a native of Ohio, and was, at the time of his nomination, assistant commissioner of the Freedmen's Bureau in the State. The other nominations were: for lieutenant governor, Lemuel Boozer; for state treasurer, N. G. Parker, from Massachusetts; for comptroller general, J. J. Neagle, from New York; for secretary of state, F. L. Cardozo, colored; for adjutant and inspector general, F. J. Moses, Jr.; for attorney general, D. H. Chamberlain, from Massachusetts.

These nominations illustrated how completely the new party was in the control of the outsiders or "carpet baggers." The native negroes came in for no share of the offices, and even the so-called white "scalawags" were not to be preferred before Northern men.

The convention nominated delegates to the national Republican convention, declared General Ulysses S. Grant their unanimous choice for president, and after singing "Rally Round the Flag" adjourned *sine die*.[38]

The Democratic convention assembled at Columbia April 3, and adopted a series of resolutions representing the views of their party. They professed their allegiance to and cooperation with the national Democratic party, "a party faithful to the principles of the Federal constitution as maintained by the fathers of the republic." All men prepared to act with the party were earnestly invited to form Democratic clubs in every section of the State. The people were urged

[38] The proceedings of the Republican convention are published in the Courier of March 12, 1868.

to go to the polls and vote against the constitution of the radical faction, and to vote for good and true men for all offices within their gift. "At the same time, in voting for officers under the constitution, we would put on record our protest against its validity." To encourage the negroes, the delegates declared their willingness to grant them, under proper qualifications as to property and intelligence, the right of suffrage.

After adopting a platform, the convention proceeded to nominate State officers, congressmen, and delegates to the national Democratic convention. Two addresses were also issued, one to the conservatives of the State and one to the colored people.[89]

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[89] The address to the colored people is printed in the Courier of April 6. An extract from it is as follows: "Your present power must surely and soon pass from you. Nothing that it builds will stand and nothing will remain of it but the prejudices it may create. It is therefore a most dangerous tool that you are handling. Your leaders, both white and black, are using your votes for nothing but their individual gain. Many of them you have only known heretofore to despise and mistrust, until your leagues commanded you to vote for them. Offices and salaries for themselves are the heights of their ambitions; and so that they make hay while the sun shines, they care not who is caught in the storm that follows. Already they have driven away all capital and credit from the South. What few enterprises are carried on are only the work of Southern men, who have faith that the present state of affairs is but temporary. The world does not offer better opportunities for the employment of capital than are found here, but will your radical friends send their money here to invest? Not one dollar. They would just as soon venture an investment in Hayti or Liberia as commit their money to the influence of your legislation. Capital has learned to shun it as a deadly plague. . . . . We do not pretend to be better friends to your race than we are to ourselves, and we only speak where we are not invited because your welfare concerns ours. If you destroy yourselves you injure us and we would if we could avert the whole danger. We are not in any condition to make you any promises or to propose to you any compromises. We can do nothing but await the course of events—but this we do without the slightest misgiving or apprehension for ourselves. We shall not give up our country and time will soon restore our control of it. But we earnestly caution you and beg you in the meanwhile to beware of the use you make of your temporary power. Remember that your race has nothing to gain and everything to lose, if you invoke that prejudice of race which, since the world was made has ever driven the weaker tribe to the wall. Forsake then the wicked and stupid men who would involve you in this folly and make to yourselves friends and not enemies of the white people of South Carolina."

The address to the conservatives recited the deplorable condition of the State and the objections of the convention to the radical constitution. It urged the whites not only themselves to vote, but to persuade the negroes and show them that it was only to their interest to vote with the whites.[40] The nominee for governor was W. D. Porter, of Charleston; the incumbents of the other State offices were, with one or two exceptions, renominated.

Before adjourning, the convention requested Chairman Burt to give his opinion as a lawyer on the legality of the new constitution. He stated it as his earnest conviction that the constitution, if ratified, would be fatal to the welfare of both races. "I protest," said the speaker, "against that constitution because it seeks to destroy our past, our history —every landmark. No people on this continent can endure the burden of taxation that that constitution imposes. All taxation by that instrument is imposed upon real estate and the sale of merchandise. The taxable property is held by one race and the law-making power by the other. Not only the arduous appropriations are paid by the whites, but all others with the exception of a small tax for educational purposes. Without any qualifications whatever, one class is allowed to vote, while the other is disfranchised. Those who do not hold the property vote and make laws, while the property owners are not allowed to vote for even a constable. So cumbersome and conflicting are the details of that constitution that we will be crushed by it. The impoverished people cannot bear up under it. Every antagonism between the two races is incited by it. I call upon every white man and every colored man to unite, resist, and defeat that constitution by every means our oppressors permit us to use. It is a duty we owe to the living and to the dead." Burt's address, of which the above is only a part, was listened to with close attention and at its conclusion the thanks of the convention were tendered to the speaker. The

[40] Printed in the Mercury of Apr. 8, 1868.

address was published by the executive committee as a campaign document.[41]

The declared principles on which the Democratic party was organized did not give satisfaction to the entire body of the conservatives in the State. Some objected to the concession made in favor of negro suffrage. Others opposed the action of the convention in nominating candidates for office, thereby taking it for granted that the constitution would be ratified. The part of wisdom, it was said, was for the conservatives to vote solidly against the constitution, which they either could or could not defeat. If they could defeat it the matter would end. If they could not, to enter into a contest for offices under it was preclusive of any protest against it. On this ground Porter declined the nomination for governor. He thought it unnecessary to name candidates for State offices, as the conservatives could defeat the constitution if they could elect their nominee. "A vote against the constitution satisfies our whole political duty," he said. As an additional reason for his action, he pointed out that if elected he could not qualify under the proposed constitution.[42]

As the day for the election drew near, the press of the State and the prominent men generally became more and more earnest in their efforts to secure the rejection of the constitution. No further action was taken by the Democrats after Porter's refusal to become their candidate. It came to be generally recognized that officers had been nominated only to bring out the entire strength of the white vote. Hence the Democrats made no effort to elect officers but bent all their energies toward defeating the radical constitution. After the new act of Congress, which declared that a majority of those who actually voted would be sufficient for the ratification of the constitution, the conservatives saw that by pursuing their former policy of "masterly inactiv-

[41] The proceedings of the convention are published in the Courier of Apr. 6.

[42] Porter's letter declining the nomination is printed in the Courier of Apr. 10.

ity" they would simply play into the hands of the radicals. In a stirring appeal for the rejection of the constitution, the Courier of April 11, said: "Our duty is now changed. It is not to abstain from, but go to the polls and vote in a solid mass against the constitution. The call of patriotism and of country, of home and of fireside, are upon us. We can either defeat the constitution or we cannot. In either event our duty is the same."

The various objections to the proposed instrument were urged upon the people as the campaign progressed. It was pointed out that the constitution would supplant intelligence with ignorance; that it would force white children into contact in the schools with negro children; that it excluded from the administration of the State government the men most fit for office, and substituted itinerant demagogues and men who were "strangers in the main to our soil;" and that it bestowed suffrage upon those who were not qualified to exercise it.[43]

The election for the legislature took place at the appointed time without serious disturbance and resulted in an overwhelming victory for the radicals.[44] Only seven of the thirty-three State senators were Democrats. Forty-eight of the one hundred and twenty-four representatives were white men, of which number the Democrats had only fourteen. The conservatives carried but five of the thirty-one counties. The vote on the constitution was as follows:

Registered voters	133,597
For the constitution	70,758
Against the constitution	27,288
Not voting	35,551

[43] This is part of an editorial in the Mercury, quoted by the New York Tribune, March 31, 1868: "It is just as well, men of the North, that you should understand now as at any other time that the people of the Southern States do not intend to be ruled by negroes. If it is the purpose of the United States government to negroize the Southern States, they may as well know now that *it has to be done with the bayonet and has to be preserved with the bayonet in all time to come.* The Southern people do not intend to be mongrelized. They prefer the sword—this they can compel."

[44] The election returns are given in Appleton, 1868, p. 657.

That the Republicans would carry the State seems to have been considered inevitable by the whites. But the figures indicate that in spite of the great numerical majority of the negroes, the election might have been much closer than it was. The whites evidently had lost hope and failed to exert themselves.

The constitution having been ratified, a copy of the instrument was forwarded to Congress for its approval. The Democrats of the State, through their executive committee, framed a remonstrance against it and sent a delegation to Washington to argue the question before the reconstruction committee. The remonstrance recited as objections to the constitution that under it the whites were disfranchised, that taxation and representation were no longer united, and that, the taxing power being held by one race and the property by the other, confiscation would follow. The last paragraph of the remonstrance closed with these words: "We do not mean to threaten resistance by arms, but the white people of our State will never quietly submit to negro rule. By every peaceful means left us, we will keep up this contest until we have regained the heritage of political control handed down to us by an honored ancestry. This is a duty that we owe to the land that is ours, to the graves that it contains, and to the race of which you and we are alike members—the proud Caucasian race, whose sovereignty on earth God has ordained, and they themselves have illustrated on the most brilliant pages of the world's history." [45]

The remonstrance fell upon deaf ears. It was submitted to the House of Representatives and there laid on the table.

South Carolina continued under military government till Congress passed the "Omnibus Bill," July 25, 1868. By the provisions of this bill, Alabama, Florida, Georgia, North Carolina, South Carolina and Louisiana were to be admitted to representation in Congress when their legislatures had ratified the fourteenth amendment and upon condition that

[45] Appleton, 1868, p. 697.

there should afterwards be no denial or abridgement of the election franchise on account of color.[46]

Immediately after the passage of the act Governor-elect Scott issued a proclamation for the convening of the legislature on July 6.[47]

The fourteenth amendment was ratified by a vote of 106 to 12.[48] An election for United States senators was entered into forthwith and resulted in the choice of T. J. Robertson and F. A. Sawyer.[49] In the meantime the South Carolina delegates to the national House of Representatives had been sworn in. By a military order of July 13, all authorities created under the recent congressional acts were withdrawn and the so-called reconstruction of the State was complete.

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[46] Statutes at Large, Vol. XV, p. 73.
[47] Journal of the House of Representatives, 1868, p. 3.
[48] Ibid., 1868, p. 50.
[49] Ibid., p. 81, et seq.

CHAPTER V.

The Freedmen's Bureau.

The peculiar circumstances under which the Civil War was waged brought out certain aspects of the abolition of slavery which were somewhat unusual, and for which there was very little precedent. In the South there were two races living side by side whose interests in the struggle were exactly opposite. The Southern whites were straining every nerve to gain their independence of the North along with which it then seemed would follow the perpetuation of their "peculiar institution," the servility of the blacks. But, perhaps contrary to the expectation of the Northern people, the servile race, when the opportunity was presented, did not show the spirit of independence anticipated nor did they rise in insurrection against their masters, be it said to their credit. They did not materially aid their Northern deliverers in the cause of abolition. Certainly this was true, as will be seen, so far as South Carolina was concerned.

Upon the conquest of any considerable area of Confederate territory, the Federal government was called upon to assume a rôle which was a departure from the general duties of conquering powers, and for which it was perhaps in large measure unprepared. Indeed, when, early in the conflict, a small portion of South Carolina came under its control, the government of the United States was placed in the somewhat anomalous position of quasi-master. That is to say, along with the acquisition of the hostile territory it had acquired the burden of subsisting and directing the labors of the large numbers of slaves, and these were, in part, the duties of a master. The white people had withdrawn upon the approach of the Federals.

It will be remembered that by an expedition under Commodore Dupont in December, 1861, certain of the sea islands off the southern coast of South Carolina and the district of Beaufort fell into the hands of the Union forces.[1] In this scope of country the negroes largely predominated and their condition, bereft as they were of those accustomed to provide for them, was that of absolute helplessness. The military authorities being thus called upon to bear an unlooked-for burden, General T. W. Sherman, in February, 1862, issued an order urging the benevolent and philanthropic people of the North to come to the help of the blacks within the limits of the command. A deep interest was aroused in the Northern States and very soon relief associations were organized for the purpose of collecting and forwarding supplies, and for supporting teachers, preachers, and superintendents of labor. In the following month, a band of about sixty volunteer laborers, among whom were the wife of Senator Harlan and fifteen other ladies, arrived at Port Royal, South Carolina, on board an army transport vessel. This company of teachers and superintendents of labor was in charge of E. L. Pierce, of Boston, and Rev. Mansfield French, and their operations were chiefly confined to the islands around Port Royal Sound. They distributed, in considerable amounts, clothing, books, pamphlets, farming implements and seeds; and during the year they conducted schools in which about 3000 negro children received instruction.[2] But it soon became necessary to supersede the various benevolent organizations in the work of administering relief, and the treasury department was put in charge of the plantations. E. L. Pierce was made agent for South Carolina and instructed to "prevent the deterioration of the estates, secure their best possible cultivation under the circumstances," and promote the welfare of the blacks.[3]

On April 29, 1862, Secretary of War Stanton assigned

[1] Supra, p. 11.
[2] Official Records, Ser. III, Ser. No. 123, p. 55.
[3] Report of the Secretary of War, 1869-70, I, 498.

Brigadier-General Rufus Saxton to duty in the Department of the South, directing him to take possession of all plantations formerly occupied by "rebels," which the fortunes of war had already or might afterwards bring into the department. He was at the same time to have control of the negroes remaining on the plantations, with authority to make such regulations for the cultivation of the land and the employment of the blacks as circumstances required. In cases of actual destitution among the negroes, Saxton was directed to issue rations and articles of clothing, to be furnished by the quartermaster and commissary of the department of the South. Industry, skill in agriculture, and self-improvement were to be promoted as far as possible.[4] But Saxton, for some time after his appointment, had to concentrate his attention more especially upon holding the islands against the Confederates, and the pursuits of peace continued for a while longer in the control of the agents of the treasury. But, for one reason or another, there seems to have been considerable difficulty and much hindrance in the farming operations.[5] E. L. Pierce, the special treasury agent on the islands of South Carolina and "general superintendent and director of the negroes," complained feelingly because General Hunter, temporarily commanding the department of the South, ordered the overseers of plantations of Ladies, St. Helena, and Coosaw Islands, to send all able-bodied negroes to Beaufort to be enrolled as soldiers. He explained that the treasury department had already expended large amounts, viz., implements and seeds, $5,000; mules and horses, $15,000; labor, $10,000; and clothing supplied by voluntary associations, $10,000. This order coming in May, after the planting of the crops had substantially closed, would entail the loss of practically all that had been done.[6] The negroes showed themselves very averse to bearing arms in the common defense, and reports were numerous that upon suspicions of a draft, many of them made shift

[4] Official Records, Ser. III, Ser. No. 123, p. 27.
[5] Ibid.
[6] Ibid., p. 55.

to escape to the woods.[7] The islands cultivated by the blacks had to be abandoned from time to time in proportion as the Federal regiments protecting the laborers were withdrawn during the year. In view of the withdrawal of the last regiment to Fort Monroe, General Hunter reported that St. Helena, Ladies, Port Royal, Paris, and Spring Islands, all under a fine state of cultivation, would have to be abandoned.[8]

So necessary was it thought to have a military force at hand to protect the negroes in their agricultural operations, that Saxton, in August, asked authority of the secretary of war to enroll a force not exceeding 5000 able-bodied men from among the contrabands, as a means of protection. He pointed out that along the entire coast occupied by the Federals, the colored people suffered greatly from fear of attack by their Confederate masters. Their labors were thereby more or less contracted and their efforts for social and moral improvement paralyzed. It was maintained that with an adequate military force to guarantee against recapture, an immense number of the negroes "could be withdrawn from the enemy and thereby very materially increase our power over these traitors to our country."[9]

Stanton complied with Saxton's request, granting him permission to "organize and receive into the service of the United States as soldiers 'volunteers of African descent' not exceeding 5000." Besides guarding the plantations and reoccupying the islands, this force was to make incursions into the "rebel" territory for the purpose of bringing away the negroes, and thus reducing the resources of the Confederates.[10] But this second effort to recruit colored troops was, like the first, not attended with very marked success. The number recruited fell far short of the contemplated 5000, and Saxton reported that comparatively few of the negroes were physically fit for soldiers. But it is worthy

[7] Ibid. [8] Ibid., Series I, Vol. XIV, p. 374.
[9] Ibid., Ser. I, Vol. III, p. 375.
[10] Ibid., p. 377; Ibid., Ser. III, Ser. No. 125, p. 1027.

of note that it was under these recruiting instructions that the first negro regiment was mustered into the Federal army. It was known as the First Regiment, South Carolina Volunteers, and was commanded by Colonel T. W. Higginson, of Massachusetts. This pioneer regiment came into some notice later in connection with the military operations at Fort Wagner and Port Hudson.[11] As to results in farming operations for the year 1862, Saxton reported that the harvest did not "answer the promise of the early season." This was, he said, on account of late planting, the ravages of the army worm and the abandonment of a large acreage of cotton and corn after the withdrawal of the army and the freedmen. The yield of cotton had amounted to only about 50,000 pounds of ginned product (100 bales). But the report of the next year was an improvement on that of 1862.[12] The cotton crop for 1863 amounted to 110,000 pounds of ginned cotton, and sufficient food products had been raised to subsist the blacks in the cotton cultivation. The cotton, it was claimed, would more than meet all the contingent care and direction of 15,000 freedmen, a majority of whom, as stated, had proved self-supporting under the system; to such as required the support of the government, viz., aged or infirm persons and destitute refugees, he had issued rations.[13]

It was in the latter part of the year 1863 that the Federal government added a new feature to its policy of dealing with the blacks which, for a long time afterwards, was fruitful of much confusion and disappointment to the negroes and of real harm to both races. It will be remembered that an act for the collection of direct taxes in insurrectionary districts was passed by Congress on June 7, 1862.[14] This act was followed later by two others which were somewhat similar to the first in their purport. One of these latter was approved July 17, 1862, and provided for the punishment of

[11] Ibid., p. 1027.
[12] Ibid., p. 1024.
[13] Official Records, Series III, Ser. No. 125, p. 119.
[14] Report on the Finances, 2nd sess. 38th Cong., 1864-65, p. 330.

treason and the seizure and confiscation of "rebel" property. The other act, of March 12, 1863, provided for the appropriation of abandoned property.[15] Through the enforcement of the acts, notably the direct tax act, the Federal government came into possession of practically all the landed property in South Carolina then under its sway.[16] In the furtherance of the amelioration of the condition of the blacks, it was decided to put the negroes in possession of a suitable portion of the confiscated lands.[17]

With this purpose in mind, President Lincoln, in September, 1863, issued instructions to the tax commissioners to sell all the unreserved government lands. Parts of these were to be sold at auction in lots not exceeding 320 acres; the rest at private sale for $1.25 per acre to negro families, no family to have more than twenty acres.[18] It soon was evident that the plan to enable negroes to become landholders would be defeated if these instructions were carried out. The purchase of lands in such large tracts being beyond the reach of the blacks, the great bulk of the lands, it was seen, would pass into the hands of speculators. Accordingly, on December 30, 1863, new instructions were issued to the tax commissioners, giving limited pre-emption rights, at the rate of $1.25 per acre, to all loyal persons of twenty-one years of age then residing upon, or who at any time since the occupation by the United States forces had for six months resided upon, any lands in the district. Preference was to be given to heads of families and to married women whose husbands were engaged in the service of the United States. Soldiers, sailors and marines were to be permitted to pre-empt and purchase land on the same terms.[19] But

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[15] Ibid., p. 338.

[16] The manner of collecting the direct tax in South Carolina was looked upon by the white people as a great hardship. In consequence of the State's non-payment of the tax the lands in possession of the Federals were seized to pay the tax for the whole State. Plantations were put up for taxes and the authorities did not return any surplus to the owners.

[17] Official Records, Ser. III, Ser. No. 125, p. 1025.

[18] Ibid.

[19] Ibid., p. 120.

this scheme of the President's, which promised to open the way for the negro to become what he most desired to be, a land owner, did not meet expectations. The tax commissioners refused to recognize the new instructions, on the ground of their illegality, and they were suspended by the secretary of the treasury.[20] But, previous to this suspension, many of the freedmen had proceeded to stake their claims and otherwise to deport themselves as independent proprietors of the soil. Hence the confusion and disappointment resulting from the suspension of the instructions was very great. The negroes, highly emotional in their natures, were all exultation at first and afterwards despondent.[21] But the idea that they were to become, at the hands of the Federal government, permanent landlords, took possession of them, and was, as will be shown, a source of continual annoyance during the reconstruction era.

The captured lands in South Carolina having been thus disposed of to speculators and other smaller purchasers, there were no agricultural operations carried on by the government in South Carolina in 1864. The duties of General Saxton for the year were limited to the enforcement of regulations for the sanitary condition and policing of the department, and to the protection of the freedmen.[22]

Saxton admits in his report that in fulfilling his mission of "atonement for the wrongs and oppression" of the negroes, he was confronted with a difficult task and was not always successful. He found that the general feeling of the army of occupation was unfriendly to the blacks. There was a disposition, he said, among the soldiers and civilian speculators "to defraud the negroes in their private traffic, to take the commodities which they offered for sale by force, or to pay for them in worthless money." Other charges made against the Federal soldiery by General Saxton were that depredations were committed by them on the plantations of negroes, and their crops and domestic animals taken and

[20] Ibid, p. 1026. [21] Ibid. [22] Ibid., p. 1022.

destroyed; that the colored women were held as the legitimate prey of lust; that licentiousness was widespread; and that the morals of the old plantation life seemed revived in the army of occupation. On account of these things, the joy of the negroes at the coming of the "Yankees" had tended to cool down.[23]

Thus did matters stand until General W. T. Sherman issued his special Field Orders, No. 15, on January 16, 1865.[24] As touching South Carolina the orders provided that the islands along the coast from Charleston, south, and the abandoned lands for thirty miles back from the sea, should be "reserved and set apart for the settlement of negroes." Within this reservation no white person, except military officers and soldiers detailed for duty, was to be permitted to reside. The orders further stipulated, that wherever three respectable negroes, heads of families, desired to settle on land and had selected for that purpose an island or other locality, the inspector of settlements and plantations was to give them a license and afford them assistance in establishing a peaceable agricultural settlement. To each family was to be apportioned a plot of not more than forty acres of tillable ground.[25] The negroes were to be afforded protection in the possession of their lands until Congress should regulate their titles. General Saxton was appointed inspector of settlements and plantations. It was announced in the orders that no changes would be made in the settlements on Beaufort and Hilton Head Islands, and no rights to property previously acquired, affected.

General Sherman's plan hardly had time to be put into operation before an act of Congress, entitled "an act to establish a bureau of freedmen, refugees and abandoned

[23] Ibid., p. 1029.

[24] It will be remembered that Gen. Sherman entered on the campaign of the Carolinas early in January, 1865. His army invaded South Carolina from Savannah, and consequently overran that part of the State first which is comprehended in the southern angle. Page 21, above.

[25] This is probably the origin of the "forty acres and a mule" will-o'-the-wisp that will be so often heard of later.

lands," was passed.[26] This act did not, however, result in an overthrow of Sherman's plan, but rather aided in its fulfillment. Under it a commissioner was to be appointed as the chief officer of the Bureau and he in turn to appoint assistant commissioners for the several insurrectionary States. General O. O. Howard received the appointment as commissioner, and named General Saxton as the assistant commissioner for South Carolina and Georgia, his duties being afterwards diminished by an officer being sent to take charge of Georgia.[27]

On May 30, Howard issued a circular letter prescribing the rules and regulations for assistant commissioners. Relief establishments were to be discontinued as speedily as possible, and every effort made to render the people self-supporting. Where government supplies were advanced to destitutes, exact accounts were to be kept and held as a lien upon their crops. In all cases where the local courts refused to allow negroes to testify, or otherwise disregarded their rights, the assistant commissioners were to adjudicate the difficulties. It should be seen to that negroes were free to choose their own employers, and paid for their labor. Contracts should be entered into freely, approved by proper officers, and inviolably enforced on both parties.[28]

Immediately following this general order—June 10—Saxton issued a circular assuming control of the Bureau, with headquarters at Beaufort, South Carolina. He announced that the bureau was entrusted with the management of all abandoned lands, with the educational, industrial, and other interests of the freedmen, and, in pursuance of Sherman's policy, with "the location of such as may desire it on homes of forty acres." The policy which had been pursued on the sea islands of South Carolina and Georgia would be continued. The negroes were exhorted to be thankful for the great boon of liberty which had been vouchsafed to them,

[26] United States Statutes at Large, Vol. XIII, p. 507.
[27] Ex. Doc., 1st sess. 39th Cong., No. 11, p. 3.
[28] Ibid., No. 70, p. 102.

while the late masters were advised to heed the teachings of the great struggle through which the country had passed.[29]

Further to instruct the freedmen as to their new relations in life, Saxton, on August 16, issued a circular exclusively to the freedmen, extending them words of counsel. They were given to understand that by the emancipation proclamation, the laws of Congress, and the will of God, they were "forever free." But freedom carried with it the responsibilities of freemen. "Your first duty is to go to work at whatever honest labor your hands can find to do, and provide food, clothing and shelter for your families. Bear in mind that a man who will not work should not be allowed to eat." Their former masters contended that in freedom they would not work, that the lash was necessary to drive them to the cotton and rice fields; but forty thousand of their race on the sea islands were proving the falsity of this charge and setting an example which all the blacks would do well to follow.

Falsehood and theft, the vices of slavery, should not be found in freedom. Contracts and agreements they should keep in good faith, it being constantly remembered that they were slaves no longer. They should not attempt to redress their own wrongs, if such should be suffered at the hands of the whites, but leave matters to be settled by an arbitration committee. The domestic relations in slavery did not require purity and honor among the blacks, but all this must change. The rules of the marriage relation, issued from bureau headquarters, should be carefully studied and put into practice. "Colored men and women, prove by your future lives that you can be virtuous and pure." No people could be truly great or free without education, hence freedmen should deny themselves even the necessaries of life to keep their children in school. They should strive to live down by good conduct the wicked lies of their enemies, who

[29] Ibid., p. 91.

would make it appear that they were not worthy of the full rights of freemen.[30]

Pains were taken that this excellent advice should be given wide publicity. Agents of the bureau were directed to publish the circular to the freedmen, and ministers of the Gospel requested to have it read in all the churches where freedmen assembled. It is not definitely known how favorably this circular was received and what influence it exerted for good; but evidently counsel of this nature, persistently given by the head of the bureau, could not fail to have a desirable effect. And it may be surprising that the bureau, begun thus auspiciously, did not accomplish better results.[31] The difficulty must have been that the bureau, under the disorganized conditions, and administered in its numerous branches by a great variety of officers, some most unscrupulous,[32] adhered to no well-defined policy.

The assistant commissioner was not long in letting the whites understand that he meant to uphold the rights and privileges of the blacks. His first general order, issued on June 20, 1865, set forth that complaint had been made that former owners of plantations, permitted to remain on their lands on condition that they apprise the blacks of their freedom, continued to hold them in slavery and even shot them down if they dared to assert their liberty. He therefore announced that all persons employing freedmen and who failed to announce to their employes that they were free, would be held as disloyal to the United States government and their property subject to seizure and division among the freedmen. It was urged upon the commissioners and agents of the bureau to give wide circulation to this order, and to send to headquarters the name of every person guilty of its infringement.[33]

The number of acres of abandoned and confiscated land held by the bureau in South Carolina was 435,000, consid-

[30] Ex. Doc., 1st sess. 39th Cong., No. 70, pp. 92, 93.
[31] Carl Schurz, Article in McClure's Magazine for Jan., 1904.
[32] Ex. Doc., 1st sess. 39th Cong., No. 70, p. 99. [33] Ibid.

erably more than four times as much as was held in any other two States, grouped as the States were at that time.[34] As by the establishment of the bureau it was not intended to supersede or destroy the work of settlement already done in behalf of the freedmen, the same general policy with regard to them was adhered to. Leases already made by the treasury agents were allowed to continue in force, and others in addition were made by the bureau.[35]

The wholesale confiscation of property along the coast and the general devastation of the war left the whites about as destitute as the blacks. Hence it was not long after the organization of the bureau, in view of President Johnson's policy of leniency, until the whites began to plead for a restoration of their property. The course which the bureau first adopted was to restore property to none except those who could give proof of undoubted loyalty to the Union. And the production of a pardon granted under the President's amnesty proclamation was not accepted as sufficient proof. But Johnson overruled this method of settling property rights and gave orders that his pardon entitled the holder to demand and receive immediate restoration of his property, except such as had been sold under a decree of confiscation.[36] This order of the President's called forth Circular No. 15 from General Howard, which directed assistant commissioners to turn over at once all property held as abandoned, when they were convinced that it did not fall within the province of the confiscation act of July 2, 1864.[37] They were also directed to restore property when application was made for it accompanied by proof of the claimant's title, and of his pardon. But land cultivated by refugees or freedmen should be retained until the growing crops were gathered, unless the owner made full compensation for the labor expended on it and for its products.[38]

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[34] Ex. Doc., 1st sess. 39th Cong., No. 70, p. 93.
[35] Ibid., No. 11, p. 4.
[36] Ibid.
[37] United States Statutes at Large, Vol. XIII, p. 375.
[38] Ex. Doc., 1st sess. 39th Cong., No. 70, p. 193.

Under the provisions of this circular the work of restoration progressed steadily. In his report for 1867, General Howard stated that 13,351 acres had been restored during the year, leaving 85,694 acres still in possession of the bureau.[39] In returning the lands to their rightful owners, the greatest difficulty arose over the disappointment of the freedmen in the well-founded expectations built up by Sherman's Special Field Orders, No. 15. Under direction from the war department, General Howard came to Charleston with the purpose of effecting an arrangement materially satisfactory to the land-owners and those freedmen who had "squatted" on the property of the former and refused to move. Howard then proceeded to Edisto Island, the locality in South Carolina where this question of restoration was pressing hardest for a solution. Arrived at the island, he met with and explained to the colored people the status of affairs, and asked their desires. They expressed a wish to be relieved from working under overseers, a majority of them indicating a desire to rent land, some a willingness to work for wages. Finally, it was agreed to leave the decision to Howard, who determined upon the following plan:

A board of supervisors, consisting of a representative of the government, of the planter, and of the freedmen, was to be constituted, to adjust contracts and cases of difficulty. These boards came to have authority to pass upon all offenses of which the penalty did not exceed imprisonment for one month, or a fine of one hundred dollars.[40]

Before the order of restoration could be issued, each land-owner was required to sign an obligation to secure to the freedmen resident on his estate the crop of the present season, harvested or unharvested; to allow freedmen to remain at their homes so long as they entered into contracts on terms satisfactory to the supervising board; to contract with responsible negroes, a refusal to do so on the part of the latter being accompanied by a requirement to leave the

[39] Report of the Secretary of War, 1867-68, p. 622.
[40] Ex. Doc., 1st sess. 39th Cong., No. 11, p. 7.

estate; to interfere in no way with schools sanctioned by the board. This obligation was not to be binding beyond one year from its date of issue. If it should be faithfully complied with, land-owners deprived of their property by General Sherman's order were to have their estates restored to their possession.[41]

But the blacks appeared not to regard seriously the regulations laid down relative to entering into contracts and the adoption of more stringent measures was discussed by the whites. Said the Columbia Phoenix: "The laborers are here sufficient in numbers and effective in results in the past, but no man of ordinary observation or common sense can deny that, in their present state of transition and disorganization, some code of labor—some system of contracts between proprietors and workers binding on both parties—is absolutely necessary. The government, through the establishment of the Freedmen's Bureau, has tried to effect this object, but there are so many difficulties and embarrassments to encounter that the great end sought has not been accomplished."[42] The situation was such that Saxton felt called on to issue a circular on October 19. The impression largely prevailed among the freedmen, he said, that on January 1, 1866, the Federal government was to give them homesteads of forty acres, and that for the coming year it was not necessary to enter into contracts with their former masters or other employers. This was an erroneous impression and Bureau agents should inform the freedmen that the government had no lands to divide among them. To provide against suffering and starvation the freedmen were urged to sign agreements at once for the coming year, and the supervising boards provided for by General Howard's order were directed to arrange equitable contracts between employers and employes.[43] Complaints of the idleness of the blacks, and of their unwillingness to make contracts became

[41] Ex. Doc., 1st sess. 39th Cong., No. 11, p. 7.
[42] The Columbia Phoenix, Oct. 18, 1865.
[43] Ex. Doc., 1st sess. 39th Cong., No. 70, p. 95.

so pronounced that Howard directed that the full force of the vagrancy laws of the various Southern States should descend upon the freedmen. He gave it as his opinion that the prevalence of the idea that the estates of disloyal owners would be divided among the freedmen was due to stories circulated by speculators desirous of cheapening the lands.[44] But some of the native whites were of a different opinion as to who was responsible for spreading the notion among the negroes that each was to receive a tract of land of forty acres. The blame was placed upon the unscrupulous bureau agents: "They (the freedmen) have been taught to believe, by the Freedmen's Bureau, that the whole of Beaufort is abandoned and dedicated to their use—that they are to be colonized there. They therefore look upon the owners of the lands as intruders and enemies."[45]

During the year 1865, if full credit is to be given to briefs of reports sent in by the sub-assistant commissioners, the condition of the negroes was by no means favorable. Accounts from the interior were replete with instances of murders, whipping, tying up by the thumbs, defrauding of wages, combining for purposes of extortion, and other cruelties toward the negroes by the whites.[46] But it would seem from an examination of the briefs that much of this alleged cruelty was mere rumor and that the accounts were overdrawn. General Howard said that from observation the briefs did not give a true picture of the state of society in South Carolina. Owing to the sickness of General Saxton, the organization of the bureau throughout the State was delayed till near the close of the year, which might account

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[44] Ibid., No. 11, p. 12. I have been reliably informed that speculators drove a thriving business in selling red sticks to the negroes, who were told that these were necessary in order to stake off a forty-acre claim. Notes of a conversation with the late Prof. R. M. Davis.

[45] Letter to Gov. Perry from citizens of Beaufort District. Phoenix, Sept. 29, 1865.

[46] These briefs of reports of sub-assistant commissioners are printed in the Report of the Joint Committee on Reconstruction, 1866, p. 222, et seq.

in part for such an unfavorable report. Still the antagonism between the whites and blacks was marked, and the "criminal list altogether too great to pass unnoticed."[46]

A not unimportant feature of the bureau was its medical department. This department was found necessary in order to regulate hospitals and asylums already in existence and to extend medical aid to freedmen who on becoming sick were totally unprovided for.[48] Surgeon N. R. De Wett, Jr., United States Volunteers, was appointed surgeon-in-chief for South Carolina and Georgia.[49] The duties of a surgeon-in-chief, as set forth in Howard's instructions to medical officers, were to ascertain the number of persons in his district needing medical attendance, to direct subordinate medical officers, and to have general supervision of the medical department. He was also to make a report to the surgeon-general of the United States army.[50] For 1865, the report showed that there were in the State one commissioned medical officer, fifteen private physicians employed under contract, twenty-nine attendants, three hospitals and six camps and colonies.[51] In addition to these efforts at sick relief, the government also undertook, on rather a large scale, to relieve the destitute. The number of dependents drawing rations in South Carolina and Georgia on September 1, 1865, was 10,664.[52] In South Carolina alone, in 1866, 1,111,847 rations were issued,[53] and in 1867, 1,052,952.

Another matter about which the assistant commissioner deemed it advisable to make regulations was the marriage of the negroes. By these regulations he said it was hoped something might be done to "correct a monster evil which meets us at the very threshold of our work."[54] Some of the more important features of the regulations were that mar-

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[47] Ex. Doc., 1st sess. 39th Cong., No. 11, p. 26.
[48] Ibid., No. 70, p. 18.
[49] Ibid., p. 114.
[50] Ibid., p. 187.
[51] Ibid., No. 11, p. 26.
[52] Ibid. The reports of the two States for this year are not given separately.
[53] Report of the Secretary of War, 1866-67, p. 713.
[54] Ibid., 1867-68, p. 640.

ried persons of color producing satisfactory evidence of separation by slavery, and who had, in prospect of permanent disunion, been married a second time, might be allowed to assume their former relations of man and wife. Marriages of freedmen might be dissolved on account of adultery, fornication, or other prudential reason. Every freedman having only one name was required to assume a "title," and keep it. All negroes, whose marriage was only a mutual agreement between themselves without public ceremony, were required to have their marriage confirmed by a minister. A man living without a wife and finding two wives restored to him—the one having children by him, the other not—was to take the mother of his children as his lawful wife. A husband living with a wife, but having no children by her, might be permitted to take a previous wife, provided he had minor children by such wife, and provided other husbands and wives, should there be any, assented to the change. The same regulations were to apply to married women similarly situated.[55]

As already indicated, there was a pronounced effort made from the first establishment of the bureau to begin and promote the education of the negroes. One of the chief officers in each State was the superintendent of education. The superintendent appointed for South Carolina was Reuben Tomlinson.[56] The freedmen displayed great eagerness in their struggle to be, and to have their children, educated, and the pupils crowded into the schools. These were supported, some by the bureau, some by Northern benevolent associations, and some by the freedmen themselves. As to the attitude of the whites toward negro schools, Howard reported in 1866 that the better classes of the whites were coming very generally to favor the education of the freedmen. But they usually favored it with the proviso that Northern whites be not longer employed as teachers. There

[55] Ex. Doc., 1st sess. 39th Cong., p. 108, *et seq.*
[56] Ibid., No. 70, p. 116.

were those, he said, of the lower and baser classes, who still bitterly opposed negro education; but altogether there was cause for congratulation in view of the immense results obtained. The report for the year shows that in September, 1865, there were in South Carolina and Georgia 114 schools, 174 teachers, and 9,500 scholars.[57] For South Carolina alone, in June, 1866, there were 75 schools, 148 teachers, and 9,017 pupils. $72,000 had been expended in support of these 75 schools, contributed mainly by Northern benevolent associations. The freedmen had erected five school houses and were in process of erecting others.[58] Encouraging accounts continued to come in during the year 1867. Twenty-three school houses had been erected in the different districts, and $12,200 contributed by the colored people for the support of teachers. And there was a growing conviction among the whites that to educate the blacks was the wise course to take.[59] But a later report would indicate that the efforts of the negroes in behalf of education were somewhat spasmodic. Superintendent Tomlinson announced in June, 1868, that the number of schools had decreased to 49, the number of teachers to 123, and the pupils to 6,698. These schools were taught largely by white teachers imported from the North.[60]

A very considerable amount of attention was bestowed by the bureau on the administration of justice in behalf of the freedmen. The assistant commissioners were instructed at the outset to protect the freedmen and promote the general welfare of the negroes. With this end in view, freedmen's courts, constituted of officers of the bureau, or of civilians where officers were scarce, had been early established. These courts were usually restricted to the settlement of minor cases where punishment did not exceed one hundred dollars or thirty days' imprisonment. Where the negro's rights

[57] Ex. Doc., 1st sess. 39th Cong., No. 11, p. 26.
[58] Report of the Secretary of War, 1866-67, p. 716.
[59] Ibid., 1867-68, p. 673.
[60] Report of the Secretary of War, 1868-9, p. 1041.

were disregarded, on account of any interruption in the civil law by reason of old slave codes, the bureau courts were to adjudicate all difficulties.[61]

There was some complexity and confusion attendant upon the administration of justice. Conflicts and many misunderstandings grew out of the activity of the provost courts as distinct from the bureau courts. This was due in a measure to the fact that the department military commanders and the assistant commissioner had their headquarters at different places, and there was no co-operation. But the situation was rendered more complex at this time by reason of the fact that the civil courts claimed unquestioned jurisdiction throughout the entire State. This condition of affairs continued until late in the year 1865, when it was remedied by an agreement between Provisional Governor Perry and the military division commander that freedmen's cases should be brought before provost courts.[62]

There were complaints and counter complaints during this period. The whites entered a general protest against the presence of colored troops, on account of whom there was a feeling of great insecurity.[63] It was alleged that labor was disturbed throughout a large district of the vicinity of a negro garrison, and that there was danger of the colored troops joining the blacks "in case of insurrection."[64] On the other hand, the bureau authorities reminded the whites that by the laws of the several Southern States the negro was regarded as an alien, that he was visited with numerous oppressions, prohibited from bearing arms in his own defense, and denied the right to serve as a juror.[65] It appears that for a year or more this crimination and recrimination relative to the status of the blacks in the courts was kept up. Finally, however, some order was restored by the discontinuance of the provost courts, which action was taken

[61] Ex. Doc., 1st sess. 39th Cong., No. 11, pp. 22, 23.
[62] Page 45, above; Ex. Doc., 1st sess. 39th Cong., No. 11, p. 23.
[63] Phoenix, Sept. 29, 1865.
[64] Ex. Doc., 1st sess. 39th Cong., No. 11, p. 26.
[65] Report of the Secretary of War, 1866-67, p. 718.

after the legislature had annulled the most objectionable features of the law discriminating against persons of color. The bureau courts were also discontinued about the same time and the blacks, with the right to testify and serve as jurors, were tried in the civil district courts.[66]

But the report for the year 1867 recommended that the bureau courts be re-established. These were needed, it was said, in order to protect the blacks and adjudicate disputes which arose in the division of the crops. In Edgefield District the white planters were alleged to have retained the entire proceeds of the crops, not allowing the negroes for their year's work any compensation whatever. Such cases did not come within the jurisdiction of magistrates, who could only sit on suits involving an inconsiderable sum. Moreover, magistrates would not bind over a white man for trial unless the complaining freedman would give security to the amount of $200 or $300, and this was generally impossible. The very poor yields of the cotton crops of 1867 and 1868 caused the planters to resort to the practice of making up their losses by unfair divisions with the black tenants, and by imposing fines for absence and sickness.[67]

Again, it was asserted that the freedmen could get no protection from the civil courts against criminals and other outlaws. One officer reported that the civil law was a source of power and oppression in the hands of a few, it being an expensive luxury. Outrages and cases of lawless violence, perpetrated upon the persons and property of the freedmen, were of unusual frequency and until the "slow but certain influence of civilization reaches this State and produces a change in the unjust and tyrannical laws by which it is governed," the bureau tribunals should be maintained.[68]

The obligation which the bureau assumed to supervise labor contracts between the whites and the blacks appears in some places to have served a very good purpose. Of

[66] Report of the Secretary of War, 1866-67, p. 738.
[67] Ibid., 1867-68, p. 669, et seq.
[68] Ibid., p. 670.

course this depended largely upon the personality of the sub-assistant commissioner in charge of the local bureau. Major Delaney, the colored assistant at Beaufort, said that "the planters at first disliked the presence of the bureau in their midst; but powerless to retard its operations and witnessing its impartial administration and the growing prosperity of their district as a result, have reconciled themselves and some have even acknowledged it as a success."[69] But, on the other hand, numerous instances of friction were not lacking. The whites were very much annoyed by the attempts of the bureau agents to regulate the number of holidays for the blacks, by the conferring upon them of special privileges relative to bearing arms, and by not allowing the whites to eject colored tenants from their plantations except by the approval of the bureau.[70]

Again, the blacks showed a willingness, in some years, to enter into contracts; in others, they did not. It will be remembered that rather strong persuasion was necessary to get the freedmen to enter into any agreements for 1866.[71] General Saxton outlined a form of contract wherein employers were to furnish freedmen with quarters, fuel, substantial rations, medical attendance, and a given amount of money to be paid in full before the final disposal of the crop.[72] Upon these terms, Saxton's admonitions appear to have been well received; for he reported in May that the blacks had entered into contracts with a willingness and unanimity beyond the expectation of the most sanguine. Planters asserted that in most cases they were "doing more work than was ever done under the old system of forced labor."[73]

But this condition of affairs was not destined to be of long duration. The very next year it was found necessary to again issue a circular calling attention to the importance

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[69] Frank A. Rollin, Life of Major M. R. Delaney, p. 270.
[70] Report of Joint Committee on Reconstruction, p. 229.
[71] Page 120, above.
[72] Ex. Doc., 1st sess. 39th Cong., No. 70, p. 96.
[73] Report of the Secretary of War, 1866-67, p. 737.

of making contracts. All this time many things were transpiring to produce greater estrangement and ill-feeling between the races. Idleness and theft were constantly charged against the blacks, who would consume their wages in advance and then stop work. On the other hand, the blacks accused the whites of fraud in the settlement of contracts, and of dismissal from service for voting contrary to their wishes. These things and the political differences of the time caused the labor agreements for the year to be much delayed and very unsatisfactory.[74]

After the State had come into the control of the new political power, in 1868, the troubles arising out of contracts appear to have subsided. The commissioner reported in the fall of 1869 that the "contract system works favorably. But few complaints are made against freedmen for refusing to work. The approval of contracts by agents of the Bureau has had an excellent effect in securing a compliance with their provisions." [75]

The operations of the Bureau were practically closed in South Carolina in July, 1868. At that time it will be remembered that the State, completely dominated by the negroes and "carpet-baggers," had been restored to the Union. There was, therefore, no reason for continuing an institution for the protection of a people who exercised entire political control in the State. General R. K. Scott, the successor, in 1866, of Saxton as assistant commissioner, was now governor, he with many of his associates having become officers of the State instead of officers of the Bureau. An act of Congress of July 25, 1868, required the commissioner to cause the withdrawal of the Bureau from the States, except that its educational and bounty features were to remain. Notice was accordingly given to the officers and agents to discontinue operations after January 1, 1869.[76]

By way of comment, it may be said that what made the

[74] Report of the Secretary of War, 1868-69, p. 1040.
[75] Ibid., 1869-70, p. 503.
[76] Ibid., p. 497.

Bureau objectionable and at times intolerable to the whites was the fact that it undertook to regulate, in the minutest detail, the intercourse between the races; and apparently even to say in what esteem the blacks should be held by the whites. Instead of serving as a harmonizing agency, the then all-important matter, it was instrumental in many cases in sowing seeds of discontent and in otherwise destroying friendly relations between ex-master and former slave. This charge cannot be made against the bureau as a whole in South Carolina, but certainly one gathers the general impression that its operations were by no means attended by entirely beneficial results. It may not be going too far to say that numbers of the subordinate officers, admittedly unfit for their positions and at the same time swayed by the passions of the period, chose usually to see only the freedman's side in the adjustment of a dispute. Moreover, the widely circulated report, doubtless genuinely believed by some, that the whites were using every means to re-enslave the blacks, had its weight in making the bureau agents the special champions of the negroes regardless of the facts in the case. This was not true of those higher in authority, and probably, if the bureau could have secured judicious officials throughout, many of the benefits expected would have been realized.