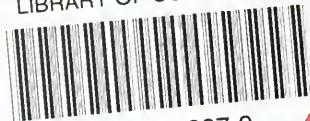


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Reconstruction and Amendments of the Constitution.

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S P E E C H

OF

HON. HENRY S. LANE,

OF INDIANA,

In the Senate of the United States, Thursday, February 8, 1866.

APPORTIONMENT OF REPRESENTATION.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States, the pending question being on the amendment of Mr. HENDERSON to the amendment proposed by Mr. SUMNER.

Mr. LANE, of Indiana. Mr. President. I need not assure you that I approach the investigation of the grave subjects now before the Senate with constraint and embarrassment. No graver subjects have ever been submitted for your deliberation. I have not been able to make that thorough preparation which the importance of the subject demands, and which my profound respect for this high body under other circumstances would have prompted. I shall not be able to rise to the height of this great argument, yet I hope I feel and appreciate its dignity and importance. We approach the Constitution of the United States upon a proposed amendment, and I feel the full force of the injunction of the Hebrew prophet, "Take the sandals from off thy feet, for the ground on which thou treadest is holy ground." I hope that on this occasion I shall be enabled to merge the partisan in the patriot. This Chamber is no fit arena for political gladiatorship. The great questions to which we now address ourselves invoke our most calm and careful consideration and deliberation. An Athenian orator was wont to invoke the heathen gods, before he addressed the people of Athens, to enable him to say nothing but what the people of Athens desired to hear. My most humble and fervent prayer upon this occasion is to the Christian's God that I may say nothing which shall be unbecoming in a Senator of the United States to speak to his fellow-Senators and to the people of the United States.

What, then, are the grave considerations to which our attention is invited? I shall speak, in its order, of the present proposed constitutional amendment and of each of the pending modifications and amendments now before the body as a series of measures which form the congressional plan of restoration and reconstruction. But before I approach that subject it will be proper to look at the present condition of the States lately in rebellion. What is their condition? A portion of the people of the country and a portion of the Senate of the United States take the ground that the States lately in rebellion are still States in the Union, existing and subsisting States, and entitled to all their rights and privileges under the Constitution of the United States. To Senators entertaining this opinion, I mean to address no argument. If they are at present existing States, the terms "restoration," "rehabilitation," and "admission to representation," are idle and unmeaning words. If I understand the position of those who advocate this doctrine, it is thus: that no action upon the part of the President and no action upon the part of Congress is necessary to restore these States to their natural and constitutional relation to the United States. How does that position agree with the present historic position of affairs in the country? For four years these rebel States have sought to overthrow and subvert the Government of the United States. They have been unable to accomplish that object. The Government of the United States has triumphed over them in the assertion of its unity and nationality and the supremacy

of its laws. We have been at war for four years. The war has temporarily ceased; at least, there is no conflict of arms; and the question now is, who have triumphed, the Government of the United States or the rebels in arms? If you establish the proposition that the people of the United States have triumphed, they, exercising the rights of war over a conquered population, have a right to dictate and fix the terms of restoration, and establish the relations which should exist hereafter between these rebel States, so-called, and the Government of the United States.

It seems to me that counsel has been darkened on this subject in the statement of the question. A portion of the people and of the Senate believe that these States are yet in the Union; another portion believe that these States are yet out of the Union; and the difficulty of dealing with that question is that both are right and both are wrong. Territorially these States are in the Union; the communities in these rebel States are in the Union; their citizens are citizens of these United States. Our national boundaries are fixed by treaties with Great Britain, Spain, France, and Mexico, and all the territory comprised within these boundaries belongs to the United States; every citizen is a citizen of the United States. But the practical question is, whether these citizens are now, at this time, in such a relation to the Government of the United States as to be entitled to participate in the legislation of the Republic. I take the ground that although, territorially, they are in the Union, although the Government by rebellion has lost no single power that it ever had to enforce the laws, to compel obedience, to appoint postmasters, judges, and marshals, to collect the revenue, and to carry on all the machinery of the General Government, these rebel States have abdicated and forfeited every right; they are no longer to be recognized as a governing power under the Constitution of the United States.

But we are told that the action of the Executive Department has from the beginning recognized them as States, and that Congress has by various acts recognized their existence as States. I shall now proceed to show how President Lincoln and President Johnson have regarded these rebel States. But before proceeding to that question, let me say a word on another point. We are asked now to recognize as existing State governments the present organizations in the rebel States. If we can recognize any State organizations there at all, it must be under one of three constitutions. For instance, the constitution of the State of North Carolina prior to 1861, the beginning of the rebellion, required the election of a Governor, the election of State officers, and fixed the qualification of voters. The people of North Carolina in their sovereign capacity met and overthrew, annihilated and subverted, the constitution existing prior to 1861, and ordained another constitution for the State of North Carolina. Then we cannot recognize the constitution existing prior to 1861. Can we recognize the constitution formed by the rebel authorities in 1861? Clearly not. They repudiated the authority of the United States, and formed their institutions in accordance with the constitution of the rebel confederacy; and that act was null and void. We cannot, therefore, recognize the State of North Carolina as existing under the constitution prior to 1861, or under the rebel constitution that subverted it. Then the simple question comes back, can we recognize the present constitution of North Carolina as republican in form and as a voluntary emanation from the people of North Carolina, who alone have a right to form their constitution? If the present State organization, under their existing constitution, cannot be recognized, then clearly no constitution exists in the State of North Carolina making that people a State under the Government of the United States.

What steps have heretofore been taken by the United States for the purpose of restoring these States to their constitutional relations to the General Government? Mr. Lincoln, in 1863, issued his proclamation for the organization of the States of Louisiana and Arkansas, stating that where loyal citizens to the number of one-tenth of the loyal voters of the States who had taken the amnesty oath prescribed by him, should get together and form a State government, so far as the Executive was concerned he should recognize such organizations as the States of Louisiana and Arkansas. You will recollect that under that proclamation of the President, State constitutions were formed and State organizations perfected in Louisiana and Arkansas. You will recollect the further fact that when their members applied for admission here the Congress of the United States refused such admission, refused to indorse that policy of the President of the United States seeking a restoration of these States to the Union. So the question was left when the present Chief Magistrate of the United States became President. He, by his proclamation, issued first, I believe, in the case of North Carolina, directed that provisional governments should be instituted in these rebel States. In order to determine the validity of that organization in North Carolina we must look

necessarily at the authority of the President for its inauguration. The President, in his proclamation, bases his authority to issue that proclamation upon two clauses of the Constitution of the United States. The first clause is that which declares that the President shall be Commander-in-Chief of the Army and Navy of the United States. He, under that provision, doubtless, in a time of war, had a right to appoint a governor for each of the different departments in the rebel States; he had a right to appoint a military officer there to command; or, if he chose, I doubt not he had the authority to appoint a provisional governor: but it was all under the military power; all under the provision of the Constitution making him Commander-in-Chief of the Army and Navy. How long does that military power exist? Clearly, during the existence of the war. With the termination of the war the power ceases.

Upon the subject of the President's plan of restoration I have only this to say: that upon the death of Mr. Lincoln, and the suppression of the rebellion, he found these rebel States without the benefit of civil-law, in a state of anarchy and confusion. The confederacy having been overthrown and no constitutional authority having taken its place, it was temporarily his duty to preserve the peace and protect the Union men in those States; and I have no fault to find with the manner in which he has sought to execute this high duty. But the very fact that he has appointed a provisional governor for one or all of the rebel States is sufficient for my argument. It shows that the President himself regarded the civil authority in those States as having been utterly overthrown, abdicated, and annihilated; and although I regret to differ with my distinguished friend from Wisconsin, [Mr. DOOLITTLE.] and to obliterate or dim the light of one single star that so gloriously blazons our meteor flag of beauty and of glory, yet I have to remind him that when this proclamation was issued, the President did not regard these rebel States as in the Union under the Constitution. If these rebel States constituted stars on your flag, they were as the lost Pleiades gone darkling through space, unobserved by any human eye. They could not be detected by the mightiest telescopic power that the judiciary of the country has ever been able to bring to bear upon them. They were not only out of the Union, but they were substantially and to all intents and purposes out of existence; and so the President must have regarded them in his proclamation.

Suppose they were present, subsisting, existing States under the Constitution, what rights had they? They had a right, first, to form their own constitution without outward pressure; they had a right to elect their Governor. The first act of the President was to appoint them a governor. The constitution existing in North Carolina prior to 1861, fixed the qualification of voters; the constitution under the rebel authority in North Carolina fixed the qualifications of voters. The President then exercised the power, as I have no doubt he had the right under the war power, to appoint for them a provisional governor, in which they were never consulted, for whom they never voted; and he fixed also the qualification of their voters. Was that a power derived by the President from the war power? Clearly not. The war power deals with a conflict of arms, the march of armies, the supremacy of the nation as represented by the Army and Navy of the United States. It has no reference to the inauguration of a civil government, or to the administration of local, municipal, or civil laws.

But the President in his proclamation draws authority from another provision of the Constitution of the United States, and what is that? The provision that it shall be the duty of the President of the United States to see that the laws are faithfully executed. What laws? Evidently the laws of the United States, the laws of Congress, the treaty stipulations of the Government, so far as they are to be carried out by congressional legislation. These are the laws that the President is bound to enforce under the Constitution, and no other laws. He has no right to interfere with the local administration of justice in the several States. He has no authority to interfere with the rights of descent and distribution of estates, of ordinary contracts, of the punishment of crimes under the State laws. He is simply bound to see that the laws of the United States are faithfully executed. What law of the United States, or what constitutional provision, made it the duty of the President to appoint provisional governors? Clearly he had the power only as Commander-in-Chief of the Army and Navy of the United States; and under that authority he has appointed provisional governors. Under that power he has inaugurated State governments. Under that power alone these State governments have an existence. I contend that the power of the President of the United States over this subject ceased the moment the war ceased, and certainly ceased the moment that the Congress of the United States convened. Who has the power under the Constitution of the United States to determine in reference to the *status* and condition of these States? But first it is perhaps necessary to determine what under the Constitution is a State. A State, in public law, is thus defined by Chancellor Kent:

"A State, in the meaning of public law, is a complete or self-sufficient body of persons united together in one community for the defense of their rights."

This is the description of a State under the public law, and as recognized by the laws of nations, and is applicable to the United States as a State, and is not applicable to any single State under the Constitution of the United States. They have not the rights of sovereignty; they may not declare war; they may not negotiate peace; they may not enter into foreign alliances; they may not do a thousand things that sovereign and independent States may do. Then the term "State" in public law characterizes the position simply of the Government of the United States. That is the government of one State as recognized by the laws of nations. The States under your Constitution are essentially and entirely different things. Their whole power is derived from the Constitution, and must be exercised under the Constitution, and the moment they repudiate their allegiance to the Government and trample upon the requirements of the Constitution, that very moment they cease to be States under the Constitution, and never having been States by virtue of public law, they have no entity and no existence. It seems to me, then, that the mere definition of a State under public law and a State under the laws of the United States, is sufficient to answer this whole argument. But lest I may be suspected of unfairness I will read further:

"A State, in the meaning of public law, is a complete or self-sufficient body of persons united together in one community for the defense of their rights. It has affairs and interests; it deliberates and becomes a moral person, having understanding and will, and is susceptible of obligations and laws."

Such is the definition of a State as defined by the distinguished Senator from Wisconsin. Then I contend that these are not States; and yet, with an impudence without parallel in the history of the world, and with an insolence unknown before, these pretended States come here and claim to be represented in the Congress of the United States; and their claims are echoed by their sympathizers here and elsewhere. For four years they have sought to overturn the Government; they have brought upon the country this terrible war, involving an expense of \$3,000,000,000, and involving the loss of more than half a million of your brave, martyred soldiers, who now sleep the sleep of death, victims of this terrible rebellion; and at the end of four years they come here, without penitence, without contrition, without works meet for repentance, and demand under the Constitution the right to representation! These six million rebels in the South claim the right not only to represent themselves, but to represent four million loyal men whom they have disfranchised in the councils of the nation! And the distinguished Senator from Oregon, in the close of his speech, said—I quote his words:

"Mr. President, inasmuch as the people of the South had no cause for the commencement of the rebellion, let us be careful not to furnish them with one for the justification of similar attempts in the future by forcing upon them taxation without representation, placing them where they can avail themselves of the precedent sanctified by the struggle of our revolutionary fathers. Though they have been confessedly in the wrong and have committed a great crime, let us not violate our own sense of justice by heaping upon them the very outrages which justified the colonies in resistance to a similar exercise of power on the part of Great Britain."

Here, then, is the close of the argument of the distinguished Senator from Oregon. Hitherto, he admits, they have had no cause for rebellion; but the argument is, that if we refuse now to admit them upon equal terms as sovereign States, they will have the same right to rebel against our authority that the thirteen colonies had to rebel against the tyranny of Great Britain. The proposition is monstrous. What is it? Have we arrived at a point in the history of this country when these people have a right to demand recognition as sovereign States, a right to participate in the Government of the country? Less than twelve months ago mighty armies in hostile array were drawn up before Richmond and in different portions of the Confederacy to contest the supremacy of the national authority. The green grass has not yet had time to grow upon the graves of your illustrious and martyred dead, the wail of the widow is yet heard in the land; the tear of the orphan yet falls; less than twelve months since the hired emissary of the rebellion struck down the President in the capital of the nation, and we are told at this time if we refuse representation to these people we give them cause for rebellion; and they are compared to our fathers who resisted British oppression; and that we should "conciliate," and yet further, that we should "compromise." What has ever been accomplished by conciliation and compromise? I shall refer to that in a subsequent portion of my remarks. We are yet called upon to conciliate and to compromise! Let it be known now and forever, let it be recorded in history so that the waters of another deluge can never efface it, that this triumph of the nation was a triumph of arms, a triumph of force; that we owe nothing to the mag-

namity of the rebels arrayed against the Government. Not one single step have we ever taken for the suppression of this rebellion looking to conciliation which has ever for one moment weakened them or strengthened us. The withdrawal of the proclamations of Fremont and Hunter giving freedom to the slaves of rebels, the delay of President Lincoln's proclamation of emancipation, these acts were attributed to our fears and weakness, not to our strength and magnanimity.

But, Mr. President, various plans of reconstruction are now proposed. I have referred to the plan of the President of the United States. It is said he left the qualification of electors and the right of suffrage to the States because it properly belonged to the States. I grant you that under my construction of the Constitution, it belongs to the States having a right to exercise it, not having forfeited their rights by rebellion, but I deny that these rebel States are in any such condition. What are the constitutional provisions upon the subject of suffrage? First—

“The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof: but the Congress may at any time, by law, make or alter such regulations except as to the place of choosing Senators.”

The President in his proclamation takes it for granted that it is right and proper to leave this whole question to the determination of the States, and I agree with him so far as the loyal States, who never forfeited their rights by rebellion, are concerned; but I contend there are no States in these rebellions districts having a right to exercise any such authority. Then there is another provision of the Constitution that the electors in each State to vote for members of Congress shall have the qualifications requisite for electors of the most numerous branch of the State Legislature. Then there is still another grand guarantee in the Constitution, that the Government of the United States shall guaranty to each State in this Union a republican form of government. Now, I suppose that in the formation of that Constitution, its framers and authors intended that, in the first place, these States should have a right to regulate the right of suffrage, but that right was to be limited and modified by the Congress of the United States whenever that limitation and modification was necessary to insure a republican form of government. That I suppose is the truth.

But, Mr. President, letting the past effort of the President of the United States to reorganize these rebel States go by without making war upon it, I have simply this to say: if the President of the United States had a right to regulate suffrage at all, he had a right to specify every condition under which suffrage should be exercised. In his proclamation, he has disfranchised fourteen classes of persons, all numerous, who were to have no right to vote, and who were voters under the constitution of North Carolina, and this exclusion was clearly right under the circumstances; and if the President had a right to say that a rebel under certain circumstances should not vote, he certainly had a right to say that a loyal man under all circumstances should vote. I make no war, as I before remarked, upon the President's plan of reconstruction if I understand what that plan is. If by the President's plan of reorganization you simply mean that we approve what the President under the necessities of the case has done with a view to the reorganization of the rebel States, I have only this to say: that I find fault with nothing in the proclamations providing for a provisional government in North Carolina, and the other States lately in rebellion, except the right granted in those proclamations for rebels to vote and the disfranchisement of loyal people. As far as possible, for purposes of convenience, I would recognize the present State organizations, I would recognize the present State boundaries. But if the President's plan means that we shall now, here and to-day, open wide the doors for the admission to these rebel representatives into Congress, then I am against it; I am opposed to it; they cannot be admitted at present with benefit to themselves or safety to the nation, and the resurrection trumpet shall sound the summons of these rebels to the general judgment before my voice or vote shall summon them to these Halls. [Applause in the galleries.] I have seen no evidence that the President desires the immediate admission of rebel representatives.

The PRESIDING OFFICER, (Mr. CLARK.) Order! Order!

Mr. LANE, of Indiana. But, Mr. President, it has been said that we are already precluded, that our hands are tied, that Congress has already recognized the existence of these States. Let us, if you please, look for a moment at that position. I have already shown you that Presidents Lincoln and Johnson in their proclamations recognized the fact that these States are dead, dead *de jure*, dead *de facto*, and that they have no rights under the Constitution. They have no rights under their present organization.—otherwise President Johnson would not have appointed provisional governors for them; otherwise he would not have fixed the qualifications of their voters, and by tele-

graphic communication, conveniently arranged, he would not have said to them, "Thus far shalt thou go and no further," do this and be States, do that and be out of the Union, until these organizations come to be the creatures of the Administration and not the voluntary act of the free people of the rebel States. It is of the very essence of a republican form of government that it shall have the approval of those to be governed by it.

Now, how has Congress regarded this question? You are told that Congress has recognized the present existence of these States, and how? That we have passed an apportionment bill apportioning certain representation to the Southern States; that we have passed a bill for the collection of a direct tax, and have apportioned that among the people of the rebel States under the Constitutional ratio and basis. All that we have done. What do these acts mean? They mean simply this: that the census had been taken, the duty of Congress to apportion the representation among the States was upon us; and we legislated upon that subject, not so much with regard to the present condition and relation of these States, as with regard to an anticipated condition to exist in the future, when these States then in revolt against the United States should be entitled to representation, and when we should be in a condition to collect taxes from them.

For instance, whenever the States were entitled to representation, their representation should be under that bill; and whenever we were prepared to collect taxes they should be collected under that bill. Thus far and no further has the action of Congress recognized these people as existing States. Yet we are told that Congress has by its legislation precluded itself and tied its hands, that it has said in the apportionment act and in the direct taxation act that these were existing States. I have shown you that that legislation had reference, and by possibility could have had reference, to nothing except the future. For instance, when they were entitled to representation it was fixed; when we were prepared to collect taxes, that was the proportion in which it should be collected.

But let me show you other acts of the Congress of the United States proving that the existence of these States was totally and entirely ignored. By the Constitution of the United States a majority of all the representatives in Congress in each House constitutes a quorum. By the deliberate action of the House of Representatives and the Senate of the United States, it was determined that a majority of the Senators and Representatives of all the loyal States represented here should constitute a quorum. Now, one of two things is true: either that law was just and proper and constitutional, or all your legislation for the last three years has been unconstitutional. The Constitution fixes one quorum recognizing simply all the States. Then, so far as that act is concerned, both Houses of Congress are precluded from taking the ground now that these are existing States under the Constitution.

But let me refer you to another instance showing clearly the view which the Congress of the United States took upon this whole subject. Prior to counting the votes for President and vice President in 1865, both Houses of Congress passed a joint resolution that whatsoever candidate might receive or had received a majority of the electoral votes cast by the loyal States that had never gone into the rebellion, should be declared the legal and constitutional President and Vice President of the United States.

There are two express acts of Congress utterly ignoring, for the time being, the existence of these States, and the President of the United States to-day holds his high office under Providence and under that joint resolution of the two Houses of Congress, utterly ignoring the present existence of the rebel States. Yet we are told that the annihilation of a State presupposes the annihilation of the Union. Is it so? By virtue of the Constitution itself, when nine States ratified the instrument we became the United States of America. Suppose that four States had never ratified it, then the argument is that though the Government of the United States would have been formed if four States had never ratified the Constitution, yet the moment one State withdraws, that very moment the Constitution is rendered void, the nation is destroyed and the Union cannot exist. It was only necessary to get the concurrence of nine States, leaving four out, and we were a complete Government under the laws of nations, having all the powers of a sovereign State even though four States had never entered the Union at all; and yet it is held that the annihilation of one single State would destroy the United States and the Union formed under the Constitution. If it had pleased Almighty God to strike out of existence, and to have caused the waves of the gulf stream to roll a hundred fathoms deep over South Carolina in 1861, the United States would nevertheless have been a proud, prosperous, and mighty nation, entitled to all the rights of sovereignty under the laws of nations.

But, Mr. President, gentlemen state the argument very plausibly; they say that secession is unconstitutional, that rebellion is illegal, and therefore null and void, and that a null and void act cannot operate to take any State out of the Union. An act may be null, and far from being void. An act may be illegal and unconstitutional, and far from being void. This rebellion was illegal and unconstitutional, but it was fraught with terrible consequences to the people of the South and the people of the North.

But we are asked, did the ordinance of secession carry a single State beyond the pale of the Constitution? I answer you that the simple ordinance of secession did not. They might have resolved, and resolved, and resolved a thousand times, and it would not have operated to carry them out of the Union. It was not the act of secession, but the act of open, violent, and flagrant war made upon the Union which destroyed their right to representation. They might have resolved to secede every day in the year, and still have abided by the laws of the United States, and their resolutions would have had no effect. The moment they declared war and became not only domestic traitors but alien enemies and belligerents, that very moment, for the time being, their constitutional relations to the United States, and their resolutions would have had no effect. The moment they declared war and became not only domestic traitors but alien enemies and belligerents, that very moment, for the time being, their constitutional relations to the United States, and their resolutions would have had no effect. The moment they declared war and became not only domestic traitors but alien enemies and belligerents, that very moment, for the time being, their constitutional relations to the United States, and their resolutions would have had no effect. The people have too long looked to the President for a plan of restoration and reconstruction. They have looked to him for that which he has no power to grant. Look to Congress. Congress alone, embodying the will of the people, in whom resides the sovereignty of the nation, can recall and restore these States to their proper relations to the General Government.

Sir, that is the Constitution. The Constitution says that the United States shall guaranty to every State in the Union a republican form of government. How can the President carry out that guarantee? He may appoint his marshals with your consent; he may appoint his postmasters with your consent; he may appoint his revenue officers; but suppose in the meantime an aristocracy is organized in any one of these States, or an oligarchy, or a despotism, the President is powerless to enforce this guarantee of the Constitution. It can only be done by legislation—legislation in Congress; and lest I may state that principle too strongly, I desire to refer to the Supreme Court decision in the case of *Luther vs. Borden*, not for the purpose (I disclaim all such purpose) of endeavoring to shed additional light on this decision after the able and exhaustive argument which we have heard from the Senators from Massachusetts and Maryland, and other Senators, but simply for the purpose of preserving the consistency and continuity of my own argument. This is a decision of the Supreme Court that I refer to with much more pleasure than I shall have if I have occasion to refer to the decision in the *Dred Scott* case, for then the Supreme Court was the representative of the highest legal learning, ability, and integrity in the nation. Mr. Chief Justice Taney, in *Luther vs. Borden*, in 7 Howard, said:

“The fourth section of the fourth article of the Constitution of the United States provides that ‘the United States shall guaranty to every State in this Union a republican form of Government, and shall protect each of them against invasion; and, on application of the Legislature, or the Executive, when the Legislature cannot be convened,) against domestic violence.’ Under this article of the Constitution it rests with Congress to decide what government is the established one in a State; for, as the United States guaranty to each State a republican form of government, Congress must necessarily decide what government is established in a State, before it can determine whether it is republican or not in form. And when the Senators and Representatives of the States are admitted to the councils of the nation, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper Constitutional authority, and its decision is binding upon every other department of the Government, and cannot be questioned in any judicial tribunal.”

Here, then, is the broad ground asserted that Congress has the power to guaranty a republican form of government, and consequently in the event of a conflict, as was the case in Rhode Island, between two separate organizations, each claiming to be the State of Rhode Island, the Supreme Court says Congress has a right to decide, by the admission or non-admission of members, which is the proper State government in Rhode Island, and that is a political question to be decided by Congress alone. It is not subject to any appeal to the courts of the country or to the President of the United States. It is final and conclusive; Congress alone has this power.

Now, Mr. President, conceding as all lawyers must the existence of the power, the duty necessarily results to exercise the power, and Congress is now called upon to decide whether there are any State organizations which can be recognized; and when Congress shall decide there is no appeal to the Supreme Court; there is no appeal to the President. The voice of the nation has been heard, and it is final, and final forever. And it is well that this high power is reposed in Congress. Otherwise you would make your President a dictator; otherwise the voice of the people might never be heard. Sir, we have not run to meet this issue; we have not forced it upon the country. It

is upon us. We stand in the presence to-day of terrible realities. Timid counsels, and illusory and speculative theories will no longer prevail. We to-day are to stand true to our own grand mission, or we are to prove recreant to the high trust reposed in us. What is, under Providence, the sublime mission now devolved upon the Congress of the United States? "To break every yoke and let the oppressed go free;" to batter down prison walls and prison bars; to declare the equality of all men before the law, as they are equal before God. This is the grand mission which is now upon us, which we may not avoid or evade.

And, Mr. President, history is continually repeating itself. After three quarters of a century, after we have run the round of long out-rage and oppression against the poor African, to-day we have come back to the proud stand-point where our ancestors stood when they gave utterance to that proud, that noble enunciation which shook the despotisms of the world, that "all men are created equal," have inalienable rights. After making the whole circle of history—it has taken us seventy-five years—we have come back to the proud position of the fathers, and we stand upon that principle, and there may stand with safety. Compromises, conciliations, temporary expedients, are evanescent and pass away, but principles are eternal, eternal as truth, eternal as the attributes of God himself. Then let us stand not upon expediency, but upon that principle enunciated by the fathers in the Declaration of Independence.

But, sir, I have been led aside from the investigation of the congressional and executive action upon this subject. I have shown you that some acts have been passed by Congress utterly ignoring the present existence of these States, as for instance in the quorum rule and the law regulating the election of President. I have shown you that, while the taxation bill and the apportionment bill seemed to recognize the present existence of the States, they evidently look to the future for execution, and are provided not for a present contingency, but for a possible contingency which may arise in the future. I have shown you that the presidential action on this subject on the one hand has recognized the existence of the States, and upon the other has utterly ignored that existence. The proclamation appointing provisional governors ignores to all intents and purposes the constitutional existence of these States. The proclamation of the Secretary of State recently issued, stating that the constitutional amendment had received the sanction of three-fourths of the States, counting the rebel States, seems to recognize the existence of the States.

Then the action both of Congress and of the President on this subject has been contradictory; but for the purpose of my argument I shall take it for granted that these States in their present anomalous and unanticipated position are not in such a condition as to participate in the government of the country. Then how shall we restore them? You have listened to the presidential plan for restoration. I now propose to show you some plans which have been suggested in Congress, and to direct your attention to the various congressional plans for the restoration of these States.

Some must vote under any plan of restoration, for the consent of the governed, expressed and known through those whom they select for the purpose, is the foundation of government. It has been said that the right to vote gives the power to rule, and under our system of government that is a truism which needs not to be proven. Ours is a Federal elective Republic; representation is recognized, and the right to select rulers is the right to rule. Hence the importance of the right of suffrage in this country. Now, suppose that the loyal white voters alone in the South are recognized—a plausible theory and not without its supporters—let us see how that plan would work.

I have seen a calculation, which I accept as correct, that nine out of ten of the white voters in the rebel States have participated in the rebellion, excluding those excluded by the President's proclamation. We shall then have only about one hundred and twenty thousand loyal white voters, a number far too small to inaugurate and carry into successful operation a government. Suppose you allow only loyal voters in the rebel States to organize government, and recognize simply the loyal citizens as the State, then how does it stand? You have in the eleven rebel States but one hundred and twenty thousand loyal voters—a basis too small, altogether too small, to answer the guarantee of a republican form of government. Then I take it for granted that no one will now contend that you can organize these eleven States with one hundred and twenty thousand voters; and if you could you would give those one hundred and twenty thousand voters as much power as one million voters in the North. Then the inequality of the measure, aside from its impracticability, would at once discard this as a basis of reconstruction. We cannot rely on the one hundred and twenty thousand loyal votes alone in the midst of a population giving one million two hundred and fifty thousand votes.

Let us take another plan of reconstruction; let all the loyal and disloyal white voters vote; what then? The rebels outvote the loyal voters in the proportion of ten to one. If you let the loyal whites and the rebel white voters reconstruct, the rebels outnumber the loyal in the proportion of ten to one, as before stated; you give over, tied hand and foot and cast into utter darkness, the loyal whites and the loyal blacks into the control of the million rebel voters. Is that to be tolerated for a single moment? That which they failed to accomplish by force of arms they seek to accomplish by the ballot. They beleaguered the capital for long months, and their flaunting banner was seen in view of the Capitol. They failed to take it. Now they propose to take it, and you propose to give it to them by means of reconstruction. In the act of triumph have we been defeated, in the hour of victory are we the vanquished?

But we are told these gentlemen surrendered and they are entitled to magnanimous treatment and kind consideration. How did they surrender? When further opposition was perfectly hopeless. You owe nothing to negotiation. You owe nothing to compromise. This peace was achieved at the mouth of the cannon, was written in blood by the point of the bayonet upon a subjugated confederacy; and yet gentlemen talk about rights they have acquired by surrender! It was the triumph of force and nothing else.

Let us look at these other plausible plans of reconstruction, for bear in mind that in any plan devised somebody must vote, otherwise we cannot have a Federal elective republic, otherwise we cannot carry out the guarantees of the Constitution. Somebody must vote, and if the States are to be admitted immediately, somebody must vote now, and who shall that body be?

There is another inequality, a gross inequality, in permitting all the rebels and all the loyal whites to vote. By the freedom of the blacks there is added one and a half million to the representative population of the rebel States. Under the ratio as contained in the present provision of the Constitution three-fifths of the black slaves are counted for purposes of taxation and representation; they are chattels for one purpose, things for another; persons for one purpose, property for another. We have come to the point now when we propose to strike down this anomaly in the Constitution of the United States. One and a half million is added to their representative population. Do you propose to have them come in with that increased power? I thought you were to punish traitors and to make treason odious; and how do you propose to punish traitors? By an amnesty wide and sweeping in its operation, and by inviting these rebels into the Halls of Congress with an increase of fourteen members to their representation? Is not this a strange mode of punishing traitors and making treason odious? And yet without the amendment now proposed to the Constitution of the United States, we not only receive them back with all their rights and privileges under the present Constitution unimpaired, but it is proposed voluntarily to give them a representation of fourteen more members in the House of Representatives. What have they done that they appeal thus mightily to our sympathies, that we should not only invite them back, consider the past as utterly gone and obliterated, and ask them to share with us the equal privileges of this free Government, but with the privilege of fourteen additional members of Congress in the House of Representatives? I take it for granted, then, that this plan of reconstruction has no friends and no supporters in the Congress of the United States.

By the freedom of the blacks, as before stated, one million and a half is added to the representative population of the Southern States. Before the rebellion, six millions in the South had the political power of eight and a half millions in the free States, and if no amendment in the basis of representation as contemplated is made, they will have about the same political power with ten millions in the North, and then they would not represent their slaves as slaves, for every one has now become a freeman and is counted for the purposes of taxation and representation as a man—a free man.

Another plan is to let all the loyal white men vote and all the rebels vote. Let us see how this will operate. This great inequality will still exist in the relative political influence of a voter, North and South, and the latter would have about double the power. Very nearly the same inequality as exists under the President's proclamation would still exist, and the rule would be in the hands of the rebels, they being largely in the majority.

Another plan proposed is to let all the loyal whites and blacks vote, and as many rebels as these voters can control; and why as many rebels as these voters can control?—Simply because we do not propose to give this Government, North or South, into the hands of rebel voters. We do not propose any such thing.

There is another plan, now exploded, of colonization, utterly impracticable, and so determined by the enlightened judgment of Congress and the whole people of the United States. I will not disguise the fact that I should prefer a separation of the races if it were practicable. I well know that prejudice exists against the colored race—a prejudice almost ineradicable: but it is wholly impracticable to separate them now. We have no territory for them; we have no means adequate to it, and we cannot force them as freemen to emigrate whether they will or not. Then I throw out of the calculation entirely this whole plan of colonization.

We are brought to the question, upon what safe basis can the States be restored to their constitutional relations to the United States? It cannot be done upon this basis alone of the loyal voters, for they are inconsiderable, and would be utterly overwhelmed by the rebel voters. It cannot be done by giving the rebel voters the power to control the legislation of the country. Now, suppose for one moment that you should determine that a reconstruction should take place based upon the votes of the rebels, what would be the result? What are the great questions now engaging the attention of the people, and which will engross the legislation of the country for the next half century? Questions of taxation and revenue. Do you suppose they will willingly tax themselves to pay the interest upon the immense debt created for their subjugation and overthrow?

There are other questions you will be called upon to decide. You will have to provide a fund for the payment of your invalid pensioners. Think you that they will vote willingly to raise money to pay the pensioners of your soldiers when their own invalid pensioners are excluded? Can you hope for any cordial co-operation between the rebels and yourselves upon any of these great subjects of national legislation? Suppose you admit them here in the Senate, they not only vote upon all these high questions, but they counsel in reference to executive appointments; they counsel in reference to the confirmation of treaties; and their power for evil is almighty the moment you admit them with all the privileges of regularly organized and constituted States. I tremble in view of the evil consequences which would result, from the admission of rebel members, to your national debt, to the national credit, the plighted faith of the nation to your bondholders, the plighted faith of the nation to your invalid soldiers, the plighted faith of the nation to your living and dead heroes. For what have they contended during the last four years? The national Union and the integrity of the national territory; and to what lame and impotent conclusion have you arrived when you say now, after the war is over, these men are to be called upon in council with yourselves to determine all this legislation, and to fix the very terms upon which they are to be admitted to participate in the Government of the United States. I, for one, will never sanction any such plan.

But what is the remedy? I have already shown you that the rebels are not fit to vote. Let me show you further that they are not and cannot be fit to legislate. What is there in their antecedents, prior to the beginning of the rebellion, which can lead us to suppose they are at present qualified voters? They rebelled without cause against a Government which they had only felt in its benefactions. They rebelled without cause against free institutions. They rebelled for the purpose of establishing an aristocracy of caste and color and wealth and blood upon the free institutions of the United States. It was the old war renewed a thousand times of pretended Democrats against democracy. This lay at the foundation of their rebellion. They had no single cause of complaint against the National Government—not one. They simply rebelled for the purpose of establishing an aristocracy founded upon slavery. Is there anything in the inception or prosecution of this war convincing you that they are now fit to participate with us in the government of the country? How was the war commenced? Under the administration of that weak and wicked old man, James Buchanan, treason was hatched in his own Cabinet. They commenced by betraying the country, by scattering your Navy, by taking possession of your arsenals, by stealing your arms, by violating their oaths to support the Constitution, abandoning your service and your flag. This was the commencement of the war; and how, I ask you, has it been prosecuted? At every step in open violation of the laws of civilized warfare; by the murder of prisoners in cold blood; by the starvation of your prisoners in prison pens; and by trampling under foot all the high sanctions of national law and morals. These measures have characterized the prosecution of the war. What is their present position? How do they stand now? You find in the South various indications of their temper and disposition. You have a law upon your statute-book that no man shall hold office except he shall take a certain test oath that he has not willingly rendered aid and assistance to the enemies of the country. Under these pretended State

organizations they have held elections, and in open defiance of that law they have elected rebels to seats in the Congress of the United States, men who boast of their services to the "confederacy," whose only claim to support consisted in the fact that they were heroes of the rebellion.

We find the same tone evinced in many of the southern Legislatures. What is their legislation in reference to the freedmen? The slave codes in substance is still in force. Some, I grant you, have repealed the ordinances of secession; some have declared them null and void; but not one of them has done justice to the colored freedmen—these orphan children of the Republic—these wards of the nation, whom you are bound to protect, and whose freedom before God and man you are bound to maintain. Not a single one of these rebel State Legislatures has protected the rights of the freedmen. They hiss your national airs, they spit upon your national flag, they celebrate rebel victories, and they glorify rebel heroes; and yet you are asked to admit them into this body! Oh, yes—admit Toombs and Davis and Wigfall and Breckinridge, and all the red-handed traitors who left these Halls so defiantly in 1861!

Look even to the State of Kentucky. She has maintained her loyal standing in the Union; what is her present position? You were told recently that the operations of the Freedmen's Bureau should not be extended to Kentucky. Oh, no! Leave loyal Kentucky untouched! She has filled her quota in the army of the United States. Yes, sir; and more than filled her quota in the rebel army! When the President of the United States issued his first proclamation for troops, how was it answered by the Governor of Kentucky? With insult, outrageous insult, and a refusal to furnish a man! The people of Kentucky then placed themselves upon the ground of neutrality—a ground as utterly unconstitutional and revolutionary as was secession itself; and recently, in the proud old Commonwealth of Kentucky, the Legislature has repealed all laws disfranchising rebel voters in that State! To-day they have a right to vote; to-day they have a right to hold office; to-day their slave code rules with a rod of iron the freedmen in that State; and yet we are told that it is improper to apply the provisions of the Freedmen's Bureau bill to the State of Kentucky!

I say these things "more in sorrow than in anger." A native of that proud old Commonwealth, I glory yet in her history; but it is in her history in her palmier days, when the clarion voice of Henry Clay in defense of the rights of mankind and the rights of the nation was heard throughout that old Commonwealth. I listen now in vain for that trumpet-toned voice which was like the bugle-call to battle for the right. If in Kentucky the rebel element is in such a condition, what is it in the States lately in rebellion?

Before I pass from the noble Commonwealth of Kentucky let me say that thousands upon thousands of her sons and citizens have sealed their devotion to the Union with their blood upon the battle-field. No braver and nobler troops have filled the armies of the Union than have gone from Kentucky. I speak not of loyal Kentucky in my censure, but of the rebel element in Kentucky, which I believe now predominates in that State. So much, then, for their present position. Are the rebel States in any fit condition to be invited here to participate with us in the government of this country? In my opinion they are not.

I have spoken of the presidential plan of reconstruction and of other plans. I now propose to speak of the congressional plans, and I invite the attention of the Senate and of the people to these plans of reconstruction, for they alone will prevail. You will look in vain to the President to inaugurate a system of reconstruction. He has no power under the Constitution, however patriotic his intentions may be. What, then, are the congressional plans? I shall first speak of the present proposed amendment to the Constitution which has already passed the popular branch of Congress and is now before us. It is that the basis of representation shall be the actual number of inhabitants, casting out of the account Indians not taxed and all those that shall be excluded in any State on account of color.

This amendment, as I have already endeavored to show, will do away with much of the inequality now existing, and which would exist under a different state of things, the blacks being all free. So far as the amendment goes, I approve of it, and I think I shall vote for it, but with a distinct understanding that it is not all that we are required to do, that it is not the only amendment to the constitution that Congress is required to make.

Then there is a counter-proposition, introduced by the distinguished Senator from Massachusetts, [Mr. SUMNER,] which proposes to declare by an act of Congress that no one shall be excluded from the right of suffrage on account of race or color. If Congress had the undoubted and unquestionable authority to pass such a law, it gets at

the result more readily than does the constitutional amendment; but it is doubtful to my mind whether Congress has this power. I believe, under the Constitution, the right to determine the qualifications of electors is left with the several States. This law would operate upon all the States. My State having forfeited by treason no one of her constitutional rights, I do not believe that Congress has a right to intervene between her and her people and fix the qualifications of voters. However I might be willing to yield the question that the rebel States having forfeited all their rights, such a law of Congress would be constitutional as applied to them, I cannot recognize the proposition that such a law is constitutional as applied to States in the Union who have forfeited none of their political rights or franchises; and even if I were clear upon the subject I should not be willing to leave the legislation in this shape, for it would open an everlasting controversy in the courts as to its constitutionality, and the matter would always be in doubt. However good in itself, it is, as I think, ineffective in its operation, for the reasons so ably set forth by the distinguished Senator from Maine, [Mr. FESSENDEN,] yesterday. It is a noble declaration, but a simple declaration, a paper bullet that kills no one, and fixes and maintains the rights of no one.

Then the same thing is sought to be achieved by the amendment proposed by the distinguished Senator from Missouri, [Mr. HENDERSON,] which is a simple amendment to the Constitution of the United States, that no one shall be excluded from the exercise of the right of suffrage on account of race or color. That begins at the right point. The only objection to it is that its operation cannot be immediate, and in the mean time the rebels may be permitted to vote, and its adoption by the various State Legislatures is exceedingly doubtful. I should not doubt, however, that we might secure its adoption by three fourths of the loyal States who have never seceded, and I believe that whenever that question is presented the Supreme Court of the United States will determine that a ratification by that number of States is a constitutional approval of an amendment so as to make it the supreme law of the land. I have no doubt about it.

Mr. President, what do we propose to do? We see that it will not do to give power in the rebel States to the rebels. We see that the Union white men are but an inconsiderable minority, and they cannot be trusted there to organize States. Then if the States are to be organized immediately, the only question is whether the right of suffrage shall be given to rebel white men or loyal black men. The amendment of the Senator from Missouri meets that issue squarely in the face. Whatsoever I desire to do I will not do by indirection, I trust I shall always be brave enough to do whatsoever I think my duty requires, directly and not by indirection.

What is the argument in favor of this proposed amendment to the Constitution?—That by limiting the basis of representation you will induce the people of the South to give the right of suffrage to the negro. In the first place, I do not believe it will have that effect; and in the second, if it would, you are asking me to do by indirection that which I as a brave and honest man prefer to do directly. Still, this amendment having been passed by the House of Representatives, and having received the approbation of the distinguished joint committee on reconstruction, and looking on it as a step in the right direction, I shall vote for it, but with the distinct understanding again expressed that other amendments are to follow.

What are some of these other amendments which, in my opinion, should follow prior to any restoration of the rebel States? You should first pass an amendment to the Constitution forbidding for all time to come the assumption of the rebel debts and forbidding the repudiation of the national debt. This should be approved by the Legislatures of the rebel States, and any amendments of the constituents of the rebel States should be approved by a vote of the people. The guarantees they have given in reference to the rights of loyal men and in reference to the rights of the freedmen are not enough. Though their conventions acknowledge emancipation to-day, they may call conventions the day after you admit them and fix their constitutions differently, or they may so legislate as to oppress the freedman and make his condition of freedom more intolerable than was his condition of slavery.

Then there should be another constitutional amendment passed requiring and empowering in express terms the Congress of the United States to carry out and give effect to every guarantee of the Constitution. Heretofore the guarantee of a republican form of government has been a dead letter. I wish Congress, by a constitutional amendment, to furnish power to carry out every single guarantee of the Constitution, most especially that provision of the Constitution guarantying a republican form of government to every State. The framers of the Constitution, the founders of the Republic themselves recognized the existence of the separate States with these un-republican provisions in their constitutions; but we are required now to begin anew. Old things are

done away, and all things have become new when four million people have been suddenly enfranchised in this our day. You are called upon to admit South Carolina, for instance. What questions have you to decide preliminary to that admission? What conditions precedent to admission exist in the Constitution? First, you are to say upon your oaths and upon your consciences that South Carolina presents a republican form government. Can any man in his sober senses, reared in the light of free institutions, in the middle of the nineteenth century; can any free American citizen, with one single impulse or aspiration of liberty warming his heart, say that that State government is republican in form which disfranchises a majority of its citizens? It is not republican in form according to any American definition of republicanism. The freedmen are citizens of the United States; not citizens under the naturalization law, not citizens by virtue of any treaty, but citizens because they are born natives to the soil. That makes them citizens. To fortify this conclusion, let me read from Mr. Justice Story's Commentaries on the Constitution:

"It has always been well understood among jurists in this country that the citizens of each State constitute the body-politic of each community, called 'the people of the States;' and that the citizens of each State in the Union are *ipso facto* citizens of the United States."—3 *Story*, p. 566.

Colored men have been for long years citizens in many of the States, and are *ipso facto* citizens of any State of the United States into which they may choose to go. Let me read another authority:

"The citizens of each State constituted the citizens of the United States when the Constitution was adopted. The rights which appertain to them as citizens of those respective Commonwealths accompanied them in the formation of the great compound Commonwealth which ensued. They became citizens of the latter, without ceasing to be citizens of the former; and he who was subsequently born a citizen of a State became at the moment of his birth a citizen of the United States."—*Rawle on the Constitution*, p. 86.

Chancellor Kent is still more explicit on the present point, for he says distinctly:

"If a slave born in the United States be manumitted, or otherwise lawfully discharged from bondage, or if a black man be born within the United States, and born free, he becomes henceforward a citizen."—2 *Kent's Commentaries*, fourth edition, p. 257, note.

There is the direct declaration of Chancellor Kent that the moment the slaves are manumitted they become citizens of the United States. Before manumission they were held as slaves and treated as chattels; the moment they are manumitted they become citizens to all intents and purposes. I doubt not then, that, this construction of the Constitution is true.

But I was proceeding further to speak in reference to the Congressional plan of restoration as considered not as antagonistic but as auxiliary to the Presidential plan of reconstruction. We have various propositions for the amendment of the Constitution of the United States. We have a bill lately passed by this body for the enlargement of the powers of the Freedmen's Bureau, giving protection to the freedmen whom we are bound to protect. By the most sacred of all obligations—obligations of gratitude, duty, and interest—we are bound to protect them. They are free by the proclamation of your President, by the amendment of your Constitution, by the valor and prowess and blood poured freely upon the battle-field. They are free, and it is ours to maintain their freedom. The bill to enlarge the powers of the Freedmen's Bureau is one of the most important measures in the series of Congressional acts for the restoration of these States, every provision of it. Then there is another act recently passed by this body to secure the rights of all the citizens of the United States where the grand declaration is made, in affirmance of what was previously the Constitutional enactment, that these manumitted slaves become citizens upon their manumission, and they are now to all intents and purposes citizens of the United States. Shall you enfranchise them or shall you hold them as a subject race? You are told, and told with some confidence, that if you permit them to exercise the right of suffrage you will invite a war of races which will end in their extermination. Let us look for a moment to that proposition.

In all the thirteen colonies (with the single exception of South Carolina, whose treasonable history has marked and marred the annals of the nation from the revolution down) they were citizens; they were voters and citizens in almost every State whose constitution was formed during or immediately subsequent to the era of the revolution. Did any such results follow? Were there any riots and bloodshed?

Gentlemen tell us that the cases are not analogous, because there were but few and sparse and scattered populations of blacks in the midst of a large population of whites in the Northern States where they were permitted to vote, and therefore it is not a fair test. I say they were permitted to vote in North Carolina; they were declared citi-

zens by the Supreme Court of that State. They were permitted to vote in Tennessee. There was no outbreak or insurrection in either of those States. If you wish to avoid a war of races, how can that be accomplished? By doing right; by fixing your plan of reconstruction upon the indestructible basis of truth and justice. What lesson is taught by history? The grand lesson is taught there that rebellions and insurrections have grown out of real or supposed wrong and oppression. A war of races! And you are told to look to the history of Ireland, and to the history of Hungary. Why is it that revolution and insurrection are always ready to break out in Hungary? Because, forsooth, the iron rule of Austria has stricken down the natural rights of the masses. It is a protest of humanity against tyranny and oppression, that produces rebellion and revolution. So in the bloody history of the Irish insurrections. Suppose the English Parliament had given equal rights to the Irish, had enfranchised the Catholics in the reign of Henry VIII, long ere this peace and harmony would have prevailed between England and Ireland; but the very fact that a vast portion of a people are disfranchised sows the seeds of continual and ever-recurring revolution and insurrection. It cannot be otherwise. These insurrections and revolutions, which are but the protest of our common humanity against wrong, are one of the scourges in the hands of Providence to compel men to do justice and to observe the right. It is the law of Providence, written upon every page of history, that God's vengeance follows man's wrong and oppression, and it will always be so. If you wish to avoid a war of races, if you wish to produce harmony and peace among these people, you must enfranchise them all.

But we are told that they are not now fit to be voters. Grant it that they are not fit for voters, and what is the remedy? What are the elements which enter into the character of a man that makes him a fit voter? Intelligence and love of country. These are the elements. Will you give the intelligent voter of the South, who is a traitor, the ballot and deny it to the patriotic voter simply because he is black and it may be ignorant? There is more safety in an uneducated patriotic ballot than there is in a cultivated felon's vote, who is ready to destroy the Government at any moment by his treason. I grant that the blacks are unfitted at present to exercise the right of suffrage. They have groaned for two hundred years, more than two centuries, under oppression. It was a crime for them to learn to read and write; the word of God was sealed to them; they were regarded as mere property and chattels; merchandise was made of their blood and bones, body and soul, and their manhood was utterly ignored. Is it anything strange that they should not be now as well prepared to vote as the white citizens? I grant they are not; and my plan of reconstruction would be this: to pass an amendment to the Constitution of the United States that after a certain length of time—say one, two, three, or five years—all persons, black and white, without any distinction of race or color, who could read the Constitution of the United States, should henceforth be voters, not disfranchising any now entitled to vote. I would give these people the inducement to learn and to cultivate themselves, and before that amendment took effect I would disfranchise the rebel voter just as long; and when the rebel voter was allowed to deposit his ballot, I would arm the freedman with the ballot to meet him. That is what I would do. This implies delay, and delay is now what we want. The danger is of precipitate action. Delay is now what we need. The infant in its tiny fingers plays to-day with a handful of acorns, but two hundred years hence, by the efflux of time, those acorns are the mighty material out of which navies are built, the monarchs of the forest defying the shock of the storm and the whirlwind. Time is a mighty agent in all these affairs, and we should appeal to time. We are not ready yet for a restoration upon rebel votes; we are not ready yet for restoration upon colored votes; but, thank God, we are willing and able to wait. We have the Government, we have the Constitution of the United States, we have the Army and the Navy, the vast moral and material power of the Republic. We can enforce the laws in all the rebel States, and we can keep the peace until such time as they may be restored with safety to them and safety to us.

There is another measure of reconstruction growing directly out of the necessity of the times, and that is the reconstruction of this District. I propose to reconstruct this District by voting for the passage of the House suffrage bill. I should prefer to vote for a qualified suffrage, requiring education. I hope the Senate will take that view of it; but if the Senate should not, and I am called to the rugged issue, I shall go straight forward and carry out the convictions of my own sense of duty, regardless of opposition upon the right or on the left—not exactly regardless, for I should regret to find myself compelled to differ with friends here and elsewhere, for whose good

opinion I have such high regard ; but in this as in all other questions I prefer to walk at peace with the man within, to satisfy my own conscience. I have arrived at a time of life when I only desire to do right and look not to the consequences. Visions of glory flit less palpably before me ; I am not as I have been ; the airy halls which a young imagination had peopled with gratified ambition are now desolate. I propose to leave such a record as I shall not blush hereafter when I review it. To place myself upon the rock of eternal truth, the rock of the Constitution, the rights of man, and the rights of our common humanity. Upon this rock I stand, firm as upon the earth beneath my feet, and the gates of hell shall not prevail against it.

But, Mr. President, gentlemen ask us when shall these States be restored. Not by my vote, until all these constitutional guarantees are placed utterly beyond all recall; not until the leading traitors in this rebellion shall have been punished, and shall have met the felon's doom. Caius Marcius sent these words to the prætor of Rome : " Tell the prætor that you saw Caius Marcius sitting amid the ruins of Carthage." I see Jefferson Davis sitting amid the ruins of eleven devastated and desolated States ; but he was the artificer of this terrible ruin himself, and I have no sympathy or compassion for him. Mercy to him is cruelty to the Republic. Mercy to him is an insult to your living heroes. Mercy to him is a mockery of the dead. Justice requires that he should be punished, and punished sternly ; and the rebels should be taught to know now and forever that this is a Government able to govern, capable of government, ready to forgive, but if needs be, ready to punish. I believe that the cause of justice will not be thoroughly vindicated until some such example is made ; not that I have any vengeance or any bitterness in my heart, it is too full of compassion and sympathy and love for a bleeding Republic to entertain magnanimous feelings toward the traitors and enemies of the country.

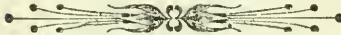
But gentlemen ask us when shall this return take place ? I answer the question thus : when the constitutional amendments shall all have passed Congress, and been ratified by a competent number of States ; when the State legislation shall be conformed to the changed condition of public affairs ; when the colored man shall be recognized as a citizen and as a man, and his rights shall be protected ; when the Freedmen's Bureau bill shall have passed both Houses, and been put in practical operation ; when the bill to preserve the rights of all the citizens shall have been received this sanction of the President ; when the State constitutions shall have been ratified by the popular vote—then, and not until then, shall I vote for the representation of the rebel States ; but to this declaration I will make one or two exceptions.

I believe to-day, if I were called upon to vote upon my oath and upon my conscience, I should vote for the admission of the representatives from Tennessee. I should do it on peculiar reasons, not applicable to the people of the rebel States generally. The loyal people of Tennessee had organized their State government without any interference from abroad ; their Legislature had met, their constitutional convention had assembled and had put in operation a new constitution and all the machinery of a State government complete, prior to the surrender of Lee, prior to the collapse of the rebellion. They were, in my opinion, in a constitutional relation to the United States, so far as they could be under the circumstances, before the suppression of the rebellion and before the surrender of Lee. I know something of the history of that patriotic people. Those dwellers of the mountains and sons of the mist, proudly represented by President Andrew Johnson, Eastern Tennessee, stood by the flag, faithful among the faithless. They covered every rocky ravine and mountain pass in Eastern Tennessee with the imperishable glory of Thermopylæ ; they in proportion to population furnished a large number of troops to the Army than any other people. Every single man elected to either branch of Congress from Tennessee can take the oath prescribed by the Congress of the United States. Three or four of them have borne the flag of their country in the very forefront of battle ; two of them bear wounds on their bodies, the evidence of their patriotism.

I should vote to admit Tennessee if she stood alone to-day. There is an organization in Arkansas, looking to me very much like a legal organization, recognized by President Lincoln, recognized by President Johnson, having all the attributes of State life and State organization, and I am not sure but that I should vote to admit her. When I am prepared to admit that the condition of any State is such as to entitle it to representation, I shall vote to admit their members, and lest I may be misunderstood I say now that when any representative is called to that desk in the presence

of God and these Senators, if he falters in taking the test oath, he is no Senator by vote of mine.

But, Mr. President, not to detain the Senate longer, I hope that the time will speedily come when with all these guarantees and safeguards thrown around the loyal men and the freedmen of the South, we may be permitted to hail them again as brothers, and to permit their participation in the councils of the nation. The storm cloud of war which so long has lowered over and darkened the land, excluding almost every star of hope, is now, thank God, spanned by the bow of peace and of promise, giving assurance that hereafter the rushing red tide of war shall no more deluge the land in blood.



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