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# SPEECH

OF

# HON. HENRY R. LOW,

ON

The Right of Congress to Determine the Qualification of its  
Members and to Determine when the Public Safety  
will Permit the Admission of Representatives  
from the States Lately in Rebellion,

AND

## THE PRESENT CONDITION OF NATIONAL AFFAIRS.

In Senate, March 14, 1866.

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# SPEECH.

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The Senate took up the special order being the resolutions on National Affairs reported by Mr. FOLGER from the Select Committee.

Mr. LOW said :

Mr. President: If the resolutions which have been presented, and which are now under discussion, came up in my opinion fully to the spirit of those which should be presented and adopted, I would content myself and feel that I had discharged my duty, with casting a silent vote in their favor. But believing that while the resolutions, so far as they go, are right, they yet do not fully meet and represent the great sentiment of the country, I cannot consent to maintain a position of even apparent indifference to that fact. I see my duty the more clearly because of the remarks which fell from the lips of the Senator from the Twentieth, on a recent evening. The time has come when we should speak plainly, in the declaration of some clear and unmistakable line of policy, and when no hesitation or equivocation will do. It is not, indeed, a time when we should indulge in crimination or recrimination, or when we should say or do anything calculated to prolong or intensify the memories of the great struggle; but a time when we should meet and look squarely in the face the important issue which that struggle forced upon us and has transmitted to us. Because while it may not be prudent to adopt a policy in reference to any matters which do not affect the great fundamental principles of our government, it is manifest that we must have a care for all that does bear upon these principles, if we hope to continue our existence as a nation. What we must do, therefore, is to adopt a policy. And when

I say "we," I mean those who represent the great patriotic and union loving sentiment of the north. This policy upon which we are to decide, and our action in reference to which is to affect the life of the nation not only in the present, but for generations to come, relates to what is popularly known as reconstruction, or to the terms upon which we will admit back to their privileges in the Union, the people, or any portion of the people, who have lately been in armed rebellion against it, and engaged in seeking its overthrow. It is the most important problem that has ever agitated the people of this country,—I may say, with truth, of any country on the face of the globe. Growing out of the war, and directly associated with the interests that then appealed so closely to our hearts, it must, in its discussion and settlement, attract the attention of the world.

The question, sir, is this: *Shall we surrender this nation and all its sacred interests, and all the advantages of our position to its enemies?* I do not think I am mistaken in my judgment as to how the people feel upon this subject. We have fought too long and suffered too much, to now yield up the fruits of the victory which we have achieved. And this is the great and overshadowing danger of the hour. In my judgment, the policy which is in some measure supported here, and which is sought to be forced upon the country, will deprive us in a great degree of the advantages which have resulted from the struggle.

Let us look over the field and strive to arrive at our conclusions as sensible men, reasoning from fixed standpoints. What is the case pre-

sented to our observation? We find in eleven States there is practically no government. We find that those States have passed through the terrific trials of a civil war initiated by their people. This war has destroyed what were their existing political institutions and changed their relations to the Union. It has left them in a condition in which it becomes the duty of the Executive and Congress, acting under the plain provisions of the Constitution, to guarantee to their people Republican forms of Government; in other words, in a condition which demands that they shall be brought back to the relationships that were severed by the war. No matter how you may talk about one side issue and another, this is the real and vital matter upon which the Nation is now called to pass.

Now coming down to the practical question we find that there are *two great and opposing principles* antagonistic to each other upon which parties must divide. One or the other must triumph, and as a necessary consequence, one or the other must surrender its views, or be defeated in the effort to maintain them. It is important, therefore, that we look over the subject very carefully, and decide deliberately which is right and which wrong. What is sought to be obtained is this: One party aims to put the Government of these States into the hands of loyal men; of men who were faithful during the war; of men who can be trusted now to carry out the great principles of the Constitution. The other course will have the effect if it shall be established, to put this great Government into the hands of traitors; of men who conspired to its overthrow; of men who are even now unreconciled to it. Disguise the disagreeable fact as we may, this is the policy toward which we are tending, if the views of the Democracy are adopted. This policy that is attempted to be adopted here—the policy that has the sympathy of a very large class of persons at the North—that would bring the Rebels back into power—is that of pretended conciliation—of the immediate admission of the rebel representatives to Congress. That policy says to Congress, You should no longer close your doors against these men who are knocking at them and seeking admission. It assumes that the States which have been engaged in revolt are not only in the Union, but are in all their full, practical relations to the Government, as if the Rebellion had never existed, and are, therefore, competent to exercise

every right that the loyal States are qualified to enjoy, prescribing only one condition. That condition is, present ostensible loyalty. And this loyalty is demanded, not of the people of the State, but of the individual.

If the representative himself is loyal, we must recognize him, and Congress must admit him to a seat, and to the exercise of his powers as a member, without reference to anything else—without proceeding to inquire what is the character of the constituency he claims the right to represent. This is one plan. The other policy which is being urged, is an adoption of that wise, just and discriminating course which Congress, in the legitimate discharge of its duties, has marked out.

This policy requires that the condition of the communities which are made up of the people or inhabitants of the State shall first be inquired into that Congress shall determine whether such State or community is entitled to representation; and that until that determination is arrived at, no individual senator or representative shall be admitted into either House.

This is the issue. There is no middle ground. One of these roads we must take and follow to its legitimate termination.

We are in danger of being deceived by the apparent fairness of the argument, that if a loyal representative comes from a disloyal State, he should not himself be deprived of rights because of the character of the community behind him. These gentlemen will say, there is noble Horace Maynard of Tennessee, and his colleague Colonel Stokes and brave General Johnson, who have been loyal all through the war; why should you deprive them of the rights of citizenship?

I say there is an apparent fairness in this argument. Unless the people scrutinize it closely, there is danger that it may lead them to the adoption of views that are not warranted by the facts. And if they do adopt it, no one can predict the evil consequences that will result to the nation. If you establish this theory of opening the door to loyal men from disloyal States, you pave the way for a restoration of power to the rebels. Is it asked why? The first reason is this: So long as a district is rebel in feeling, you cannot expect anything else in the character of those whom it shall select to embody its views. Take the Third district of Louisiana for instance. How are you to get loyal representatives from a section whose

people are so intensely and virulently treasonable? They might, under the pressure of federal bayonets, and with the accessories of martial law, by chance or even by design send a loyal man. But federal bayonets are not to remain there; martial law is not to be continued. Abandon these safeguards, and what guarantee can you have, that the very next year you will not find the loyal man removed, and another man substituted, who will more truly represent the sentiments of those who elected him? Persons who are elected to office must always represent controlling popular sentiments. As well might you suppose that you could send a rebel, whose hands are stained with the blood of Union soldiers, from some loyal district of the North, as to expect that those subdued but unconverted Rebels in the South would send loyal men to represent them, any longer than they were absolutely compelled so to do.

#### WHAT IS LOYALTY.

Again; you are met with another difficulty the moment you attempt to adopt this rule, which has been so strongly urged; the question at once arises, if loyalty in a representative is to be the only test, what is loyalty? What standard is to be the one that in this regard shall determine recognition or exclusion? No matter what standard you may fix to-day, what it shall be in future will depend, under such a plan, upon what the men are who are then in Congress. I do not know a man in the North, who does not claim to be loyal—not only loyal now, but loyal at all times. I do not know a party in the North, which, whatever the position it assumed towards the Government, does not claim to have been loyal during the war. How then, are you to determine your basis? The effect is going to be this—if you pursue the plan thus marked out: every one will be deemed loyal who can take the constitutional oath. There is probably no better evidence of the inevitable tendency of such a view, than that which is given by the President. He says that a man is to be presumed loyal when he will take the oath to support the Constitution. He does not even say anything about test oaths, but leaves it to be inferred that he would favor their amendment. I deny that a man is loyal because he can take the oath. If you adopt that rule alone of admitting the individual member before his State shall be declared entitled to representation, you will

fill your halls of Congress with the worst class of rebels in the South. What do the large class of Southern men who begun the rebellion, and who have been engaged in its prosecution, care about an obligation to support the Constitution? What did they care about it a few years ago? They had sworn to maintain the Constitution of the Union then; but when the test came, they said that the duties they owed to their States were superior to those they owed their country. Where is the evidence, if any can be produced, that this feeling has changed?

And I will go further. I do not know that even the stringent test oath, if it should be maintained, would be of any use. I sometimes think the President is right, and that the test oath will be taken only by the worst classes of men—because nearly all have been in rebellion, and honorable, high-minded men will not swear that they have not. Are you, then, to get good representatives solely through this obligation, or any other applied to the individual? Look at Garret Davis, of Kentucky. He can take any oath that has been prescribed, and makes no refusal to do so—yet he is a great deal worse and more dangerous than Alexander H. Stephens—far less liberal, and less in sympathy with the objects of the Government. Here is a man a great deal worse than many who were among the leaders of the rebellion, who can take the obligation. The oath is of no avail, and the country is virtually left without protection, if you break down the barriers which congress proposes to establish.

There is another reason why this policy will not answer. From one district in a state, you will have a representative man whom you consider to be loyal, and to whom you therefore concede a right of admission. From the next district on each side, you will refuse to admit members because they are not loyal. Thus you propose to create a divided character, a State which is one-half in the Union and one-half out of it. So the Senate will admit one class of men, while another class will be recognized, and another state of qualifications will be demanded in the House. There would be no defined principle of government, but a series of conflicting ideas struggling to be incorporated upon it, and tending inevitably to anarchy. The evil would be less if you were to admit all at once, than if you attempt this unsatisfactory, half way sort of legislation.

## DANGER IN THE "CONCILIATION" DOCTRINE.

There is another danger. It has been argued by the senator from the Twentieth that you should admit these men back to Congress, because you should be forgiving, because you should be charitable, because you should adopt and exhibit a spirit of christian magnanimity. Permit me to say that I am actuated by no vindictive spirit. I do not desire to see any extraordinary course of revenge pursued towards the rebels. I do not wish their lives might be taken, except in a few cases. I do not wish to see their property confiscated. But I hold that it is far from public duty, far from enlightened charity, far from that broad spirit of christianity which embraces all things in its scope, that we should admit these red-handed rebels back to all their privileges because they have been beaten and are subdued before us. I believe, sir, it is a right and wise maxim in politics, that we should be just before we are generous. I believe that it is oftentimes true that mercy to the individual is cruelty to the State. If the matter ended with the individual, I could perhaps go as far as the gentleman in his plea for mercy and forbearance has gone. But I cannot disguise from myself the palpable fact that it reaches beyond the individual to the State. You might, with as much justice and propriety argue that robbers and murderers should be forgiven; that you should open the doors and let them out into the light of day, because they have been vanquished; because the instruments with which they attempted their crimes have been taken from them. You do not say so even if they repent. You do say that there is a duty to the State which is higher and broader than the claim of mercy to individuals, and therefore you keep them in prison still. Just so in this instance. A great crime has been committed. Its perpetrators have been tried and convicted. No pardon has been issued to them. It is not even in evidence that they have repented.

And now it is asked, not only that they shall be relieved from their disabilities, but also that you shall surrender the destinies of this great nation into their hands! I repeat that this sentiment is anything but christian. It is anything but right.

We owe this duty to the nation, to humanity, to the future,—that some sort of punishment shall be inflicted; that the rebels shall not es-

cape the consequences of their flagrant treason; that they shall be put under ban, as the proper and legitimate consequence of their own infamous acts.

I have spoken of the plan of Congress, which is to allow the States to come back as States. I have endeavored to show what would be the consequences of giving them readmission by districts. Let me ask the indulgence of the Senate while we review the

## POSITION OF CONGRESS.

The right of Congress to provide conditions and guarantees for the rebel States before their relations to the Government shall again be resumed, depends, of course, upon the actual condition of these States and the relation they bear to the General Government.

That a State has no right, under the Constitution, to secede from the Union and break or destroy its relations to the Federal Government, is a proposition which no sane man in the North will now attempt to deny. The compact made when she sought and had granted to her the advantages of the Union, could only be rightfully dissolved by the consent of both contracting parties.

But that a State may wrongfully but actually break that compact and impair or destroy those relations to the General Government, so far as the people of the State itself is concerned, is a proposition which the dullest intellect must concede. It matters not that it be not done rightfully, so long as the fact remains that it is done.

No State can rightfully or under the Constitution enter into any "alliance or confederation," yet eleven states actually did enter into "an alliance and confederation."

The Constitution denies a state the right to grant letters of reprisal to coin money, to emit bills of credit, to lay duties, to keep troops or make war, yet the rebel states did coin money, grant letters of reprisal, emit bills of credit, keep troops and make war. It is a great mistake to suppose that because an act is an illegal act it is no act; it is illegal to commit murder, yet when shot or stabbed to the heart by the highwayman, the individual is no less dead than when executed by the sentence of the law. So here, though the act is illegal, and does not bind the government, yet it is no less an act accomplished on the part of the state, and the people



of the State are subject to all the consequences prescribed by international law and the consequences that would have resulted had the relation been in law severed.

In other words, the general government is not bound by what the State unlawfully did, providing it has the power to compel obedience to the compact, but in exacting or compelling such obedience, it may do so without regard to the rights or guarantees to which the State was entitled, but which it willfully and wickedly forfeited and set at nought.

This will be more apparent when we see precisely what it is that makes the State (under our constitution). The making of a State is nothing more than a great and sacred contract between the general government and a certain number of people outside its boundaries, living and inhabiting a certain area of territory. These people come to the government and say that they want the benefits and franchises of a State. The government, through its agents, agree that they will grant these benefits and franchises upon the condition that those people will do certain acts and make certain stipulations on their part, required and enjoined by the constitution.

The government will agree that each state shall have a certain number of senators and representatives in Congress; that they shall vote for President and Vice President; that they shall have a state government republican in form; shall be defended in their persons and property; shall have post-offices and mails, and other advantages and guarantees, upon the condition, however, that the people seeking admission as a state shall acknowledge supreme allegiance to the laws and constitution of the United States; that their officers shall take an oath to support the constitution; that the citizens of each state shall be entitled to all the immunities of citizens in the several states; that they shall commit no treason, levy no war, make no treaty, nor do any act forbidden by the constitution of the United States.

To this the people assent. Congress ratifies the compact, and the people and this territory becomes a State. Now to hold that this compact cannot be broken; that this new relation which the people of this territory bear to the government cannot be suspended or impaired, is, in my judgment, contrary to reason and law. Either party may break this relation so far as

the offending party is concerned, and it could only be resumed upon such terms as the party offended against should prescribe.

Suppose that after this State is admitted, the other States composing the government should destroy the Constitution, overthrow the government by violence, and establish a monarchy, would any one pretend that the new State would not be absolved from the compact?

Mr. H. C. MURPHY — I would like to ask the gentleman whether he regards the Southern States as States of the Union?

Mr. LOW — I will answer that directly in the line of my argument.

The State which throws off its allegiance and makes war upon the Government, destroys its relations to it; but when beaten back we are told that no penalty can be exacted because it is a State under the Constitution. Take the individual citizen of the State, he is entitled to his liberty and his life so long as he keeps the compact which every man is under to be a law-abiding citizen; but let him shoot or rob his neighbor, and the State forfeits his life or liberty, but that forfeits none of the claims or obligations which the State has upon him, and if restored to his original status, the State prescribes the conditions upon which he lives.

Here the State commits the crime and breaks the compact; the laws of nations fix the penalty and define the forfeit.

But when, it will be asked, does the State lose or forfeit these rights so secured? And I have heard the question asked if the city of New York lost hers when the mob set the authorities at defiance? Or did Massachusetts or Pennsylvania lose theirs at the time of Shay's or the Whiskey rebellion? The answer to this is upon the lips of every lawyer who has become familiar with the laws of nations. Not certainly for light or transient causes. A mob or riot or transient insurrection furnishes no grounds for the forfeiture of the franchises of a State. But where the State or a number of the States acting in their capacity of States, through their Legislatures or conventions, deliberately throw off and renounce all allegiance to the general government, break the compact and levy war and maintain their hostile attitude for any considerable period of time with nearly balanced power, they then become belligerents, and the contest a civil war.

Now what do the laws of nations say upon this subject? As I wish to assert nothing in this

regard but what is fortified by the most convincing proofs, says Bello :

"When a faction is formed in a State, which takes up arms against the sovereign, in order to wrest from him the supreme power, or impose conditions on him; or when a republic is divided into two parties which mutually treat each other as enemies, this war is called a civil war, which means war between fellow-citizens. Civil wars frequently commence by popular tumults which in nowise concern foreign nations; but when one faction or party obtains dominion over an extensive territory, gives laws to it, establishes a government in it, administers justice, and in a word, exercises acts of sovereignty, it is a person in the law of nations; and the foreign powers which desire to maintain their neutrality ought to consider both as two States, independent as respects one another and other States, and who recognize no judge of their differences."

Says another great writer :

"When a part of the State takes up arms against the Government, if it is sufficiently strong to resist its action, and to constitute two parties of equally balanced forces, the existence of civil war is thenceforward determined. If the conspirators against the government have not the means of assuming this position, their movement does not pass beyond a rebellion. As true civil war breaks the bonds of society, by dividing it in fact into two independent societies, it is for this consideration that we treat of it in international law, since each party forming as it were a separate nation, both should be regarded as subject to the laws of war. This subjection to the law of nations is the more necessary in civil wars, since these, by nourishing more hatred and resentments than foreign wars, require more the corrective of the law of nations in order to moderate their ravages."

Hear what Vattel says upon the effect of a civil war :

"A civil war breaks the bands of society and government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. These two parties, therefore, must necessarily be considered as constituting, at least for a time, two distinct societies."

Says Grotius :

"That a civil war between members of the same society is a mixed war, public on the side

of the Government, but private on the part of the people resisting authority; yet such a war entitles both belligerent parties to full belligerent rights."

Now, what has been the nature of the struggle which we have carried on for the last five years? It has been no mere insurrection, no riot. It has been a most tremendous, bloody and terrible civil war, deliberately organized and commenced by States acting in their capacity of States—as States they formerly repudiated the compact and seceded from the Union, so far as was in their power. Banded together into a hostile confederacy, seized the United States fortifications, navy yards, and other property within their limits, formed a government, elected a president and congress, made and executed laws, sent their ministers to foreign governments, coined money, levied taxes, seized and confiscated property of citizens of the United States government, raised mighty armies, seized and held an immense territory and for five long years defended their territory and maintained and carried on a war against the government on a scale without a parallel in the history of nations, a war which sent one million of men to their graves, which cost or destroyed more than one-third of the whole property of the country, which was so monstrous in its horrors, so inhuman in its barbarities as to shock and appal the civilization of the world.

If ever a conflict within a nation approached the magnitude and importance of a civil war, surely this was one.

All the civilized nations regarded and treated it as such. Our own government, President and Congress uniformly acted upon the same theory, and the Supreme Court, in the celebrated "prize cases," expressly so decided, and then declared that all within the hostile territory "are public enemies, and liable to be treated as such, and that the United States may exercise full belligerent rights, and that to the antagonistic parties all the legal liabilities and consequences of war attach."

Mr. H. C. MURPHY — Will the Senator allow me to ask him one other question: how could those States, being out of the Union, give any force and validity to what is called The Great Amendment to the Constitution?

Mr. LOW — I do not know that they could.

Mr. MURPHY — You do not think that they could?

Mr. LOW — I do not know that they could. I am not to decide, or even to pass an opin-

ion upon the question. It is not within the limit of my present argument.

Now what were the "legal consequences and liabilities" that attached to the defeated party when their armies were overthrown? Here again comes in the law of nations, and defines with clearness and accuracy precisely what they were. Not only were their rights under the constitution and their political relations to the government lost and destroyed, but the traitors had become public enemies, and their property and lives were forfeited to the government, and that government could impose just such conditions upon them as in its discretion should seem best.

"But you don't believe in State suicide"—"that a State can secede from the Union." "Hav'n't we been fighting five years to keep them in?" I hear asked with an air of triumph by an impatient listener at my side. No, in one sense I don't believe that a State can go out of the Union or commit "suicide." Her territory is still there within the ancient bounds of the Union, and within our military lines—her inhabitants are there and their property or what is left of it, is also there; but I do say, and the law of nations does declare, that the political relations which the people of this state did bear to the Union and government are lost and destroyed, on the part of the State, and can only be revived by a new compact with that government, upon conditions then made.

#### THE DEMOCRATS AND PRESIDENT JOHNSON DIS- AGREE.

I know that our Democratic friends insist, that the moment the military power of the Confederates was broken, and the action of the rebel government arrested, all their former rights were revived and their former relations restored by their own volition, without any action or consent on the part of the Government. Now if this be true, the President has been guilty of the grossest usurpations. He never in practice carried out the theory at all, but on the contrary, acted upon the principles which are declared by the laws of nations and governed the subjugated foe as the conqueror does the conquered.

Upon that theory, he should have immediately recognized the State governments, constitutions and laws as they existed before the war. He did nothing of the kind, but on the contrary, he set aside their law,

and constitutions, their State officials—old and new—disregarded all rules which they had adopted and all rights which former laws and constitutions had secured and given. Then by his individual will he arrested their governors, threw them into prison, and sent governors of his own to rule them; he set aside their statutes and governed them by military decrees; he arrested their citizens, set aside their elections, suppressed their officers, disfranchised their voters, shut up their newspaper offices, ordered them to abolish slavery, repudiate their debt, make new statutes as to evidence, and in fact exercised powers more despotic than any emperor or monarch.

All branches of the Government have agreed in this regard, that some power must exercise these extraordinary prerogatives, but here comes the question of difference, shall this question of reconstruction be settled by the President or by Congress? The Democracy say the President shall determine this.

Mr. H. C. MURPHY—The Democracy do not hold any such doctrine. The Democracy do say, that the rebellion being closed, the States are *ipso facto* in the Union, and cannot be excluded; and that they are entitled to all their rights and privileges as States. That is to be decided neither by the President nor Congress. It is in the Constitution, and is therefore the fundamental law of the land.

Mr. LOW—The position of the Democracy is very unfortunate for them, because it conflicts with the law of nations.

It is strange to me to hear gentlemen abusing Congress for usurping powers, when all the usurpations, if any have occurred, have been upon the other side.

What do you find in the Constitution intrusted to Congress—this great body of men, who represent the people, whom they approach more nearly than do any other branches of the Government? What do you find as to their powers? Almost one-third of the Constitution is taken up with definitions of the rights and duties of Congress. They shall make war, grant letters of marque, establish reprisals, fix tariffs, levy taxes, and so on with a great variety of duties, among which is one, that they should guarantee to every state a republican form of government. A bill which makes any appropriation of money, must originate in Congress. Not only is this true, but so jealous were our forefathers of prerogatives, that they ordained

that such bills should originate in the lower House, that being the most numerous body and the one most nearly approaching the people. The Supreme Court decided, years ago, in the case of Luther v. Burden, that it is for Congress to decide upon what the particular form of a State government may be. And yet gentlemen impugn Congress because it assumes to have something to say, as if it were a body of usurpers engaged in the attempt to force a despotism upon the country.

The power of the President is circumscribed, and his duties are clearly defined. Except as commander-in-chief, he could do no act without authority of Congress. In Congress is all the power vested that pertains to the legislation of the country.

Yet the President has assumed to save Congress all trouble on this subject. He has made new State governments, without regard to former laws or constitution; and asks Congress to take them without inquiry or investigation, for "better or for worse."

#### HOW THE DETERMINATION OF THIS QUESTION IS TO AFFECT THE COUNTRY.

When you examine it you will find that this question comes down to every hearthstone in the land. It is not merely a question whether Horace Maynard or Colonel Stokes shall be admitted to Congress, but whether these rebel communities shall immediately send their rebel representatives to Congress, and shape and determine our future policy. Upon the solution of this problem the whole future of the government depends.

Let us for a moment examine the present position of affairs. What is the condition of the country? All has been changed in a few years. War has upturned the foundations. At the South, the old aristocracy is for the most part broken or humiliated by the result of the strife—those who did not die in it; a new system of industry is about to be inaugurated; the slaves have been liberated; a new direction of public policy is to be taken. It is true that war has left these States impoverished and weak, and it is equally true that they must be strengthened to build up again. Our own Northern part of the country must also be changed. We are laboring under an immense debt—a debt of three thousand millions—incurred in prosecuting the war and saving the Union. We have on

every hand widows and orphans whose husbands and parents died in battle, and we are under a solemn obligation to protect them from want. The maimed and crippled soldiers from our armies are also to be cared for.

In view of these facts and these duties, what will be the immediate effects of an adoption of the policy of receiving rebels back on their oath, and without inquiring into the condition of their constituencies?

Look at the wrong by reason of their increased representation, let us examine it for a moment! The representation which the South will bring back in the lower house, consists of sixty-two members. It will also be entitled, by the liberation of the slaves to thirteen more; making seventy-five in all. These men would come to Washington, most of them imbued with the temper of unyielding and desperate rebels. This is what must happen under the policy which the Senator from the Third pronounces to be the sound policy—the Republican principle. That principle will admit seventy-five rebels into Congress.

Now turn to the basis of representation and you will find that the Northern states are now entitled to 156 in the lower house, of this number they will lose 13 which the South will gain by the liberation of the slaves, leaving 143.

The border states and the late slave states will bring back 98. Suppose these to vote in a body, and all you have to gain from the northern states is 21 members who sympathize with the south and you put the House of Representatives in their hands. You could hardly fail in any election of getting a larger number. Do you want such a result? I would resist it by every constitutional means, I would never consent to put the government in the hands of these red handed rebels who for five years have sought its destruction.

But worse than that is the manner of electing them. Of the whole number of representatives from the Southern and border States, 31, or nearly one-half, are given under the amended Constitution, upon a basis formed by the blacks. What is the fact, under the arguments advanced? You will admit these States back, and you will elect the 31 representatives which the blacks entitle them to, by white votes! There are several States of the South in which each Rebel inhabitant would balance by his vote two loyal

white men of the North. This is what is sought; and for what purpose? To build up new parties, new hopes, and new candidates for the Presidency. Go to the Senate chamber, and in reference to this particular danger, you are even worse off there. You have twenty-two Senators from the eleven insurgent States. You would have now seventy Senators in all, if the whole number was full. A majority is thirty-six. You admit twenty-two from Rebel States, and they have only to get possession of fourteen more, to take control of the body.

These twenty-two men would, of course, represent Rebel sympathies — the sentiment of those who elected them. All the interests of this great country would be in their hands. We would be as badly off as when the Rebellion began—yes, and a great deal worse. The only mistake the Rebels made at the outset of the war was made when they left the Senate. They might have remained there, and held the North bound hand and foot.

Gentlemen will argue that this presentation is not fair; that they are not intending to re-establish the old order of things; that only loyal men will be admitted. But the great difficulty will be, that when you once open the door, you recognize the sovereignty of the States and surrender the oversight of Congress, and you will thenceforward have no right to interfere.

Carry this same principle into the Electoral College — for it must be made up on the same basis as the representation in Congress. There you will find that they hold in their hands the election of a President, and of course they would be grateful to the man who had made them, who had called them back and liberated them from the consequences of their own high misdemeanors. Then you would have the whole three branches of your Government in the hands of such men — these men who have been its armed enemies, and who are its enemies in sentiment, and so far as they dare to be, in action, to-day. Were this policy adopted I should fear to-day, that if General Lee were opposed to General Grant in a run for the Presidency, he would be the successful candidate. I do not say that such would be the result. I say, that the state of feeling, both North and South, would give us apprehensions upon the subject. Do we want to run such risks? I repeat, that if we had no remedy but revolution, I would submit, however reluctantly, and would never

advocate a policy of resistance. But our remedy lies in the Constitution.

We now have it in our own keeping and are asked to throw it away.

#### THE EFFECT OF THIS POLICY UPON UNION MEN AT THE SOUTH.

What will be the effect upon the Union men of the South, if such a feeling as is professed and seriously advocated here and elsewhere prevails? What will become of the men who left their own country and sought your Northern armies, to fight in the ranks for the Union? the men who were hunted, and persecuted and wronged all through the war? They will be obliged to take "back seats," while their enemies and the enemies of the country bear away all the honors. I tell you, Senators, that it is not the Union men of the South that ask for the admission of representatives from these States. It is the rebel who displays such eagerness to be recognized as part of the government he has assailed. Why, I am appealed to by gentlemen who ask me if I want to keep out of the national fold the staunch patriot, Horace Maynard, and the brave Colonel Stokes, and the sturdy champion of loyalty, Parson Brownlow? I will open my arms to them with rejoicing whenever I can do so without endangering the country. But, I repeat, they are not the men who ask you to do this thing. From the whole unbroken South, the voice comes up in thunder tones from the Union men, that you must not admit those rebel representatives, and so crush them. They point to Horace Maynard. Did not Horace Maynard say, in a letter from him, recently written and published, that they are not true friends of the President who advise this course? And did not Col. Stokes, his peer and colleague, urge upon Congress to take time, and settle the preliminaries well, before giving admission to Southern representatives; and declare that the radicals in congress were the true friends of the South?

Read the following from Maynard's letter to the Nashville meeting:

*"The condition of the loyal Union people is little better than under the despotism of the Southern Confederacy. What that was, go ask our friends in East Tennessee. East Tennessee, illustrious in her sorrow and the blood of her martyrs. Go to the prison cells, where hundreds pined in wretchedness, rather than pollute their souls by swearing allegiance to a power they condemned. Go to the gibbets, where the patriots Haun and Harmon, the father and the son, and Henshie and Fry, passed upward along the shining path-*

way to glory. There see what treason did in the plenitude of its power; and what it wants but the opportunity to do again."

"With the same traitor editors as before and during the war, pardoned, it may be, but manifestly unchanged in temper and purpose, there is displayed the same sectional spirit and hatred of the Federal Government, though not the same stomach for fight. Under a thin disguise of flattery of the President, they assail his friends who have stood by him all through the dark years of the conflict, and vilify those whom they call the Radicals, meaning all Union men who opposed their infamous course, and who are now unwilling that they should again be restored to power over loyal men. Their diurnal venom affords the strongest argument against the admission to their seats of your Congressional representation. This remark applies, with few exceptions, to the Southern press.

"The ideas and principles of the rebellion are constantly instilled by it into the popular mind. Let no Union man, high or low, court the favor of traitors. He will never win it. From the first they have held him as their enemy, and to the last they will be his." Every Union man who puts his trust in them will sooner or later find it out. Be wise, I beseech you in time!

Read also from Col. Stokes' letter to the same meeting:

"Take time! take time! It is the duty of congress not to let the members walk right in and take the oath, regardless of any questions, and walk to the Treasury Department and draw their pay. I know it is very acceptable. But congress is not going to do that thing. Congress ought not to do it. Its duty is to guaranty to every State a republican form of government, and examine the laws passed in pursuance thereof. It is the duty of congress to examine and see who voted for the amendments to the Constitution. To examine and see what class of men sit in your legislature; what sort of laws they are passing. When a member comes up there with his papers all right, and is a Union man—a loyal man—why, then, congress will admit him at the appropriate time. The idea of admitting these men—that this congress is denounced for keeping them out—admitting members that had been at war for four years! Yet they are dissatisfied. Unless congress will take them within a few days, they cannot wait. Take time; let congress take time; and when it does the work, let it be well done."

And hear him again in his last letter to his friends in Tennessee:

"I am again on my way to Washington to help the Union men to restore law and order! I am regardless who deviates to the right or to the left. If some men choose to go astray, even if they be high in authority, I have taken no oath to follow any man. Your friends in Washington are the Union men in Congress. Sometimes they are termed Radicals. I don't care what name you call them. I can be called a Radical as easily as I was called a Lincolnite and Abolitionist in 1861. The Radicals are your friends,

I repeat. Some of them are a little extreme in some of their views, but still you must remember that these Union men are the ones who saved our Government in 1861, when it required all the energy and courage of man to meet the dreadful crisis. Are they not the men whom you should trust now with the reins of Government?"

The following from Gen. Hatch, from his sworn testimony:

"Q. What, in your opinion, would be the condition of affairs in the Middle and West Tennessee, should our military force be withdrawn from those portions of the State? A. The loyal portion of the people would be subject to certain ostracism, which would drive them out of the country. They would legislate against them in every way, at least, I have often heard them say so.

"Q. Do I understand you to say that the disloyal people there say that they would legislate against the loyal white people? A. Yes sir; they say that those people who opposed them in this war shall not hold office there; that is, that they will not vote for any of them, and that all civil offices shall be held by their own men; that is the way they have always talked to me."

Read also the following from late Washington papers, facts about which there is no question:

"WASHINGTON, March 15.—The Committee on Reconstruction have reported the testimony of Gen. Custar, who stated that he had traveled over the South, and found the people exceedingly bitter against the Government—more so than a few months ago. The grand juries have, within a few months past, found 500 indictments for the murder of Union men and others, but not one has been convicted."

"PERSECUTED FOR LOYALTY.—Seventy-five members of the Society of Friends from Randolph county, N. C. have arrived at Washington, en route to Indiana, and assert that they were forced to leave their homes from the persecution of ex-soldiers of the Rebel army. They state that at least 150 more of their persuasion, bound for the West, will arrive in a few days."

This is the logic that comes to you from the very men whom you are implored to admit, in order that they may be heard. The radicals of congress, they tell you, are their true friends? And does not old Parson Brownlow join them in declaring that if the oversight and protection of the Government were withdrawn, the lives of Union men would not be safe? Why, this Southern State says to us, "take time, we can wait." True, it may be proper to admit Tennessee soon. But these Unionists say to us, "Do not hasten reconstruction, if it is going to impair our safety or endanger the integrity of the Union."

The effects of this policy, if consummated, cannot but be disastrous. Twenty-two rebel sena-

tors will be thrust into the senate and seventy-five members into the house of representatives (thirteen being added by the liberation of the slaves), giving to one white voter of the South the same power that two have in the North, and throwing at once the whole power of the government into the hands of rebels and rebel sympathizers. Your loyal whites in the South would be made odious.

#### EFFECTS UPON THE FREEDMEN.

I might say much more of the wrong you would do the freedmen by the policy which is proposed, of the great wrong you would do to the four millions of blacks who are inquiring the way to freedom. The Senator from the Twentieth said that slavery was abolished. I tell you that slavery is not abolished. The mere form has been stricken from the statute books; but the spirit still exists. Read the laws of all the States of the South, and you find that they still treat the blacks everywhere as slaves. Why, sir, the States of the South, if received in their present temper, could and would enact laws that would make it far more intolerable for the blacks than before the war. Look at the statutes of South Carolina. Here you find a section which specifies that an employer shall always be addressed as "master," and an employe as "servant."

Here it is from the laws of 1865:

Sec. 35 says "All persons of color who make contracts for service or labor shall be known as servants, and those with whom they contract shall be known as MASTERS."

Is not that the venom of the old spirit cropping out? They cannot bear to have their free men address them as men. But if the evil consisted wholly in the name, that would not be so bad. What else do these South Carolina rebels do? They provide that no negro shall exercise the free man's right to own fire arms; that he shall not work at a trade; that he shall not hire himself upon his own terms; that his master may, for the purpose of discipline, inflict upon him corporal punishment. What would you think of enacting such oppressive statutes for the free white workingmen of the North? Yet that is the condition of these freedmen. That is the condition they will remain in until some other great struggle shall occur, unless you have guaranties for their rights, and incorporate those guaranties upon the constitution—unless you

take all the steps in the direction of reconstruction carefully, and with a high regard for principles of justice.

Hon. John Covode who had been sent by President Johnson to examine into the condition of the southern states lately testified before the reconstruction committee:

"I might be able to state the substance of the conclusions; one of them I recollect distinctly was to this effect, that if the Rebel element was allowed to vote in the South at that time, every member who would be returned to Congress would be hostile to the policy of the Federal Government, not only as regards the payment of the National debt, but in reference to emancipation of the negroes; that while they expressed a willingness to submit to principles of the Emancipation Proclamation they always coupled with it the determination to regulate their own affairs in that respect, stating that they would have an organized system of negro labor which they would construct for themselves; over and over again in conversation in New Orleans I heard them saying that they could make a condition of affairs better for themselves than it was before; they said that Government had freed the negroes and should be made to take care of the cripples and those who were not able to work, while they would regulate and control the labor of the able bodied."

#### EFFECTS OF THE DEMOCRATIC THEORY UPON LAWS PASSED DURING THE REBELLION.

There are some who undertake to say that the States have always been entitled to representation in Congress. But if you assume that, then a very large proportion of the laws enacted since the war began, and, for aught I know, the law upon which your federal bonds are issued, must be unconstitutional and void.

Mr. H. C. MURPHY—I would like to ask the gentleman whether, in his opinion, the acts of Andrew Johnson, as Senator of Tennessee, after the opening of the rebellion, were or were not constitutional acts?

Mr. LOW—It is a question how far or when a state can, by her own recusancy, deprive her loyal citizens of rights. My own opinion is that Andrew Johnson having been invested with his rights as Senator, and becoming a part of the government, he could not be deprived of them by a rebellion in which he did not participate. That is, while Tennessee might, by revolt, change its own relations to the Federal Government, she could not change her obligations, nor annul any action already and rightfully had under the Constitution.

Mr. MURPHY—Then, if one Senator can have these rights, why may not other Senators possess them also?

Mr. LOW—That is not the point embodied in my response, Andrew Johnson was elected senator while Tennessee was a loyal state.

Mr. MURPHY—The question is a fair one. Were United State Senators elected from other states after the rebellion began, legitimately qualified?

Mr. LOW—After the contest had assumed the magnitude of a civil war, no Representatives from rebel states could be elected to the United States Congress.

Mr. MURPHY—Still another question. I desire to know whether in the opinion of the Senator, the Constitution does not act upon the individual in view of his obligations as a citizen of the State, and judge him as such?

Mr. LOW—The Constitution acts upon the individual and the State both, and judges both with equal force and directness.

Mr. MURPHY—If the Constitution acts directly upon individuals, can they be deprived of their prerogatives under it?

Mr. LOW—What I hold is, that the State does not get out of the Union in the sense of losing its obligations, which it owes to the government but that the citizens of the State, forming its existing political organization, did forfeit their rights under the Constitution. Under the well-known principle that no man shall take advantage of his own wrong, they cannot now plead their prerogatives under the Constitution, in mitigation of their offense.

But the Senator has diverted me from my point. That is, that under his theory, every law enacted by Congress and signed by the President, during the period when the Southern States were without representatives upon the floor, is void, for the want of what he would call a constitutional quorum. What did the government do when these States absented themselves from the national council? It made a rule that a majority of the loyal States should constitute a quorum, and that the business of the country should be done by them. Admit them upon this theory, say to them that they are now and always have been entitled to representation, and they would declare your laws invalid at once. And if the theory of the Senator is correct, they would do so with entire right, and you would be powerless to find a

remedy, and without a reasonable ground of complaint.

#### WOULD THEY REPUDIATE THE NATIONAL DEBT?

I have been asked whether I believed that they would repudiate the National debt. I am not prepared to say that I think they would do so at once. But they would by covert and unfriendly legislation practically repudiate; they would make a special movement with a view to legalizing the Rebel debt. Only the other day a Democratic member of Congress, from New Jersey, proclaimed that there was no authority or power in Congress to force a repudiation of the rebel debt. The thing seems monstrous now, but these Democrats say so; the "reconstructed" traitors say now that they do not intend to pay this debt—and who is bold enough to say that they would never attempt to legalize the rebel debt? They would not at first demand it as a right. They would approach you through the avenue indicated by the gentleman from the Twentieth the other night. They would seek it as a measure of harmony, of forgiveness, of conciliation. They would say that "you simply got into a family quarrel." That is the new way of phrasing the late great struggle—"a family quarrel." And "now let us compromise as *brothers* and pay them *both*." Why tax cotton to pay the Union debt, and refuse to let the rebels meet their own? The argument will be irresistible to that class of men who at present are so careful of the rights of our "misguided Southern brethren." How long, with a power of control in Congress, do you believe they would tolerate this tax upon cotton, the tax upon incomes, the productive tariff. The spirit of the South gives reason to apprehend danger from this source. Such is the testimony of those who have been through the States, and have become familiar with their spirit. Such is the almost unanimous testimony of your Union Generals, like General Thomas and others.

#### THE DANGER IS NOT YET OVER.

It is five long years since this great battle for free government was inaugurated by the call to arms.

Costly have been the sacrifices and terrible the strain upon the faith and courage of our people. More than once have our noble armies been borne back, broken and bloody from disastrous



fields, and the bulletins have told of thousands and tens of thousands of brave men fallen for their country, carrying lamentation and woe to every hamlet in the land. Again and again has the cry come to our ears that "Washington was in danger," and our sons have rushed to the rescue.

We have had our Bull Run, our Gaines Mills, our Fredricksburgh, our Chancellorsville and our Chickamanga, each appalling in their sacrifices and threatening dark disaster and danger to our cause.

And the peril is not yet over; the shadow of a great danger hangs over the land to-night. True it is that no rebel army with frowning cannon and serried bayonets threatens your towns, or seeks the overthrow of your government, but what the rebel army failed to do with bayonet and cannon, is now sought to be accomplished under the specious guise of *restoring the Union* and *reconstructing the states*; the same wicked and treasonable elements are again at work, and the same dangerous league of the foes of free republican government, which but one year ago sought your ruin by rebellion and civil war; have again conspired to effect it by lying intrigue and deceptive friendship. They tempt your eminent statesmen and public men by appealing to their pride and ambition, and holding up to their view as the price of their recreancy, expectant honors and rewards, and while with their arm around your neck they call you brother, they drive the stiletto to your heart. It were better that Washington had fallen, that no stone of its marble pillars should be left upon another than that you now turn over the vast and sacred interests of the government into the hands of unrepentant rebels, and be guilty of black ingratitude to the loyalists and freedmen of the south.

Who are the men who now denounce your Congress, and shout their praises of rejoicing over the supposed policy of the President

The same who a few months ago commanded the rebel armies, guided rebel bayonets and pointed the rebel cannon; the same who shot down your sons upon the bloody field and starved and murdered them at Andersonville and Libby Prison, who hunted them with bloodhounds and made "ornaments of their bones," who fired your cities, robbed your frontier towns, burned your ships, poisoned you by infected clothing, and finally culminated their giant crimes by the deliberate and cold-blooded as-

assassination of your President. The same men at the North who cheered and aided the rebellion all through the war, who never voted "a man or a dollar," who pronounced your currency "rags" and your soldiers "hirelings," who saddened at our victories and rejoiced over our defeats, who resisted your marshals and shot down those who enforced the laws, who burned your orphan asylums and *beat to death little children in your streets*.

All that is despotic and cruel and vicious in the land, join hands and unite in praising the policy of surrendering to traitors, and in denouncing, with the coarsest insult and most threatening menaces, your Congress elected by your votes and representing your will.

#### WHAT OF CONGRESS?

And what is this congress, so vilified by rebels at the South and rebel sympathizers at the North? Were a stranger to land upon our shores, he would suppose that they were an aggregation of tyrants, a self constituted band of despots who had overturned the Government and were ruling the country by the strong hand of arbitrary power.

Could unbridled insolence go further than this? No nobler, purer or more patriotic body of men ever assembled in your legislative halls, embracing fifteen general officers from the Union army, and composed largely of the same men who, by their wisdom in the forum, and by their bravery in the field, carried our country through its terrible and bloody struggle of rebellion and civil war. They are the men who, when treason assailed the Union, stood between it and them, and saved the Constitution. They have assumed the right ground. I trust in God they will stay there, regardless who may go to the right hand or the left.

Congress is right, and the nation will sustain its action. What ground exists for all this complaint? Point me to a single usurpation accomplished or attempted. Show me a single letter of the Constitution violated. Why, then, this abuse? Why this denunciation? I tell you, the real reason is because Congress has been true—because it has refused to forfeit its claim upon our confidence by abandoning its post of duty—because it stands like a bulwark, firm and impregnable against every sort of attempted wrong.

I have no doubt that Congress will continue to be true, and that it will defend and carry out

to the last, the objects with which it is entrusted. But whether it did or not, we should still have no recourse but to stand by our principles. There are some who tell us that if we do so we will ruin the party. I have no fears of that. You can never break a party which was founded upon principles so noble, and which has endured all the shocks of a tremendous civil war, upon a MAN or a LEADER. So long as we are right on principle, so long as we do not surrender any of the ideas which have carried us forward so successfully in the past, there is no reason to fear any danger. You will break the party, if at all, when you desert principle and become untrue to the obligations of duty. You have not broken it in New Hampshire where the issue was clearly and boldly drawn; where both the Senators and all the Members of Congress were united in giving expression to the determination of the Union majority at the North. And you will not break it in any State where the representatives of the party stand up manfully for its principles.

#### WHAT OF THE PRESIDENT?

It is well that we should speak very plainly and frankly our views upon this subject—that if we do not think the action of the President was wise and right, we should say so. I know there are some gentlemen who are very chary of expressing the feelings that are in them, because of an apprehension that they will hurt somebody. I believe that the President will much more respect those who frankly tell him the truth, than those who deceive him, mislead him, and induce him to think he is supported by the unanimous sentiment of the country, until he finds to his regret and his cost, that the fact is otherwise. I for one am unwilling to say to the President that I believe he is right and should be supported, when I feel that he is wrong.

We cannot mistake the fact that the veto message was received with profound astonishment, and regret by a very large majority of the loyal people of the North. But that was not the temper displayed by the Rebels of the South. They hailed it as a victory for the South as a practical subjugation of the Union party of the free States—as the greatest victory that had been achieved for them and for their ideas, since the days when Beauregard triumphed over the defenders of the Union.

The President may have done that which by virtue of his office he has no right to do. It does not involve a separation from him to say so, fully and frankly—that is not an attack upon him in his legitimate position, and in the exercise of his undoubted powers. So far as he has attempted legislative powers, he has made a very grave mistake. He had great power under the military authority vested in him by the Constitution, to mould and direct the work of reconstruction, and this power, it was perfectly proper that he should exercise. But it was not proper for him to go beyond this, and undertake to conduct in his own person the legislation of the country. He should have recognized the emergency and called Congress together to accomplish the great work of reorganizing the States. It is my deliberate judgment that when he failed to call Congress together after the assassination of our noble martyr President Abraham Lincoln, and the surrender of the armies of Lee and Johnston, he committed a grave blunder; the evil effect of which we will feel for many years to come. At that time, the rebels were confounded and disheartened. Congress could have prescribed any concessions it deemed essential to secure the welfare of the country, and they would have accepted them at once, and gladly, as a condition of being allowed to exist and have any public rights whatever. That was our golden opportunity—our opportunity to fix the penalties of those traitors who deserved condign punishment, to disfranchise them from office, to confiscate their property, to prescribe the terms upon which the large body of the people might return to the privileges of citizenship. This was, I say, our golden opportunity. The President threw it away; in this he erred most grievously. We should not hesitate to declare so.

I am told, whenever I approach this subject in a spirit of frankness, that I “must not irritate the President.” I am sorry to hear that sort of argument employed. In my judgment, it is not creditable to the President, nor to the high office he fills. “Irritate the President!” Why, who ever heard of “irritating” Abraham Lincoln, or Thomas Jefferson, or George Washington, or either of those great predecessors of the present incumbent, whose names have shed a lustre of glory upon American history? Or who really believes that Andrew Johnson, with his firm convictions, his high

sense of personal independence and his determined resolution, will become irritated by what is said concerning him among the people, or by the acts which Congress feels called upon to perform in the exercise of its legislative functions? I say, it is belittling to the office, and uncomplimentary to the man. He will not thank you for that sort of policy or for that line of defence. The only support he can derive from the American people is that which is founded upon a high conviction of the straightforwardness of the course he is pursuing. He acts from convictions, and I would be the last one to say that he does not intend, fully and conscientiously, to perform his duty. But he is human, and it is possible for him to be mistaken. If he goes wrong, we should not favor him, and sacrifice the interests of the country from fear that we may wound his feelings. If he goes right, we should give him an earnest and cordial support. But we should, in any case, speak what we think, earnestly, candidly and truthfully, entirely regardless of men and their ambition.

#### TAKE TIME.

Why are our democratic friends so anxious to have the rebels back in the councils of the nation. To hear them talk about it, you would think the matter was one upon whose immediate decision depended the issues of life and death. They cannot stand it another month, hardly another day. Why this haste in admitting them back to power, what wrong are they suffering by a reasonable delay to ascertain their condition and their wants? for five years of bloody strife, they have refused to acknowledge allegiance to the government, and sought the destruction of our liberties and our lives; the blood of murdered martyrs still cling to their garments and stain their hands. I want the blood washed from their garments, and the stains cleansed from their hands before they are thrust into Congress, to make laws for the men they sought to kill.

#### CHARITY, FORGIVENESS.

Nothing can be lost by delay and caution, but in my judgment everything may and will be lost if this attempt to precipitate action by browbeating and bullying Congress, shall prevail.

What will be the effect of such a course of action upon the future, will it not encourage future rebellions when you thus promise not

only absolution to the traitors but honors and rewards; and doom the suffering loyalist to ignominy and disgrace?

You began by the declaration that "treason should be made odious and traitors should be punished for their crimes." You end by exalting treason into a virtue and elevating traitors to positions of trust and honor. For it is a conceded fact proved by the testimony of our general officers that in nearly all the states reconstructed under the President's policy the largest portion of the office holders under the State government as reconstructed are unrepentant rebels. Many of them fresh from the battle fields of the rebellion.

This dangerous and wicked policy must be arrested. We have for five years struggled through fire and blood for the vindication of our principles and the salvation of the country. We supposed we had conquered and that triumph had crowned our arms. True we have triumphed on the field, but the conflict is not yet closed: The weapons only are changed and the theater of the contest. The bullet has been changed to the ballot, and the fight from the camp and the fortress to the forum and legislative halls.

But I still have confidence in the spirit of the North. Their energy has not abated nor has their vigilance gone to rest. Their treasure has been poured out like water and their bravest and their best gone down in blood, but they have not faltered; and will not now, cowards may go over to the enemy, and the timid fall out of the ranks, but with steady tread and firm array they are "marching on" to the great consummation of their mission, and to ultimate victory and triumph.

With ETERNAL JUSTICE for their motto, the old flag for their banner, with the true loyalty of the country for their support, the right will triumph and the wrong be forever crushed.

"God changes his workmen but the work goes on."

#### EXPLANATORY NOTE.

My position in regard to the question of secession—of the right of a State to break away from the Union—is greatly misunderstood even by the State paper (for they would not intentionally misrepresent me), perhaps my language was not well chosen to express the idea. I will again briefly state the argument. I utterly deny all right on the part of a State to withdraw from

the Union. There is no shadow of foundation for such claim in the organic law, but I aver that nevertheless a State may wrongfully, by violence and revolution, break away from the Union if it has the *power* to do so, establish and maintain a separate existence. This though a wrongful separation is still an actual existing fact against which all the powers of logic and argument are unavailing. Suppose that the Union army had been captured at Gettysburgh and destroyed at Vicksburgh, and the Confederate Government had become a fixed fact, permanently established, and the United States had withdrawn from the contest, does any one doubt that there would have been an actual breaking away from the General Government, not, it is true, accomplished by virtue of rights derived under the Constitution, but wrongfully done by cannon and bayonet and superior physical force. There was no constitutional or legal right on the part of Texas to secede from the Mexican Republic, yet she did, by force and violence, secede and break away from the parent state.

Galileo was forced by torture to acknowledge that the earth *stood still*, but when his tormentors had stepped away, he still muttered "the earth *does move*." This brings us to our next proposition.

The states not only had no right to break away under the Constitution, but in this case they did not succeed in doing so by force. The government was too strong for them and they were defeated in their attempt, so that the conclusion follows that neither rightfully nor wrongfully did they get out of, or break away from the Union.

All this I grant and agree that the State as a State did not secede or get out of the Union, but here comes the point which I make and which is misunderstood and confounded with the question of "State suicide." That is, that although the *State* failed in its wrongful endeavor to break away from the Union, yet the people and inhabitants living therein in this attempt committed a GREAT CRIME, A MONSTROUS WRONG, for which they are tried by the WORLD'S TRIBUNAL, the laws of war and nations, and are adjudged as individuals and communities to have forfeited their former relations to the parent government, and lost the prerogatives and immunities to which they were entitled before their crime was committed.

In this wrongful and wicked effort to do by violence that which they could not claim as a

right they have been guilty of all the horrors on the calendar of crimes, the victims of their murder lie buried in every vale and on every hillside in our land. Murder on the field of carnage with bayonet and bullet, murder in the prison pens with slow and lingering torments, and murder in the peaceful town, where men and women were aroused from sleep to fall by the assassin's knife, while robbery and arson and assassination and treason are all recorded in judgment against them.

These communities did not lose their rights and immunities under the Constitution, or forfeit their relations to the Government by virtue of an accomplished *secession* from the Union (for in that they failed), but by reason of the *crimes they committed in the attempt to secede*. If the crime had been committed by an individual, he would forthwith have been hung; but you cannot hang whole communities, you forfeit the prerogatives and rights to which they were before entitled, and impose upon them such terms of punishment, more or less severe, as shall make good the wrong to the injured party, as shall prove a warning to future agitators, and as shall best reform the offenders.

It was not necessary that they should have *actually seceded* to have become liable to these penalties; it was sufficient that they attempted it by violence and wrong, and in so doing committed great crimes.

It may be likened to the case of the individual who attempts to take your life; he may fail in the attempt, but he is sentenced and imprisoned in the State prison for an "attempt to kill." So though in attempting to shoot you he had killed your son, he would be punished by death, not for the crime he intended to commit, but for one which resulted indirectly from the first wrong.

The same principle runs through all your laws in relation both to wrongs and contracts. If one party to a contract wrongfully breaks it, the other party may compel the offender to perform his part, and in addition pay the *damages* and *costs* which have resulted from his wrongful act.

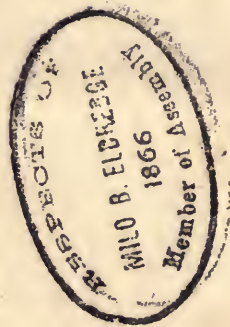
In the case of the individual, this is done by the judgment of the court having jurisdiction of the case in the county or State. In the case of a community composing the people of a State or nation, the adjudication is made by the great tribunal of nations, the laws of nations and war.

We do not claim that States are out of the

Union. The Government has lost no right or claim upon the community composing the state. We mean to hold the State to its obligations. and the people to the contract. We only ask that they shall pay the *damages and costs* to which the world's jury says we are entitled.



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