A POLITICAL MANUAL FOR 1869,
INCLUDING A CLASSIFIED SUMMARY OF THE IMPORTANT EXECUTIVE, LEGISLATIVE, JUDICIAL, POLITICO-MILITARY AND GENERAL FACTS OF THE PERIOD,
From July 15, 1868, to July 15, 1869.

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WASHINGTON CITY: PHILIPE & SOLOMONS. 1869.
PREFACE.

This volume contains the same class of facts found in the Manual for 1866, 1867, and 1868. The record is continued from the date of the close of the Manual for 1868, to the present time.

The votes in Congress during the struggle which resulted in the passage of the Suffrage or XVth Amendment of the Constitution of the United States, will disclose the contrariety of opinion which prevailed upon this point, and the mode in which an adjustment was reached; while the various votes upon it in the State Legislatures will show the present state of the question of Ratification. The additional legislation on Reconstruction, with the Executive and Military action under it; the conflict on the Tenure-of-Office Act and the Public Credit Act; the votes upon the mode of payment of United States Bonds, Female Suffrage, Minority Representation, Counting the Electoral Votes, &c.; the Message of the late President, and the Condemnatory Votes in Congress upon it; the Inaugural Address, Message, and Proclamations of President Grant; the Decisions of the Supreme Court of the United States in the Texas and McCordle Cases, on the "Legal Tender" Act, and the Taxing Power of the States as to travelers passing through them, and as to United States certificates and notes; the Opinions of Judges Chase and Underwood in the Caesar Griffin Case; the Georgia decisions as to the eligibility of colored persons to office, and intermarriage of the races; the Opinion of Attorney General Hoar on Military Commissions; and the General Political Miscellany, including the usual lists of Cabinets and Congresses, combine to constitute a varied and interesting fund of information quite worthy the attention of every student of American history.

EDWARD McPHERSON.

WASHINGTON CITY, July 15, 1869.
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PART IV.

POLITICAL MANUAL FOR 1869.

XXXVII.

MEMBERS OF THE CABINET OF PRESIDENT JOHNSON,
AND OF THE FORTIETH CONGRESS, THIRD SESSION.

PRESIDENT JOHNSON'S CABINET.

Secretary of State—William H. Seward, of New York.
Secretary of the Treasury—Hugh McCulloch, of Indiana.
Secretary of War—John M. Schofield, of New York.
Secretary of the Navy—Gideon Welles, of Connecticut.
Postmaster General—Alexander W. Randall, of Wisconsin.
Attorney General—William M. Evans, of New York.

MEMBERS OF THE FORTIETH CONGRESS.

Third Session, December 7, 1868—March 3, 1869.

Senate.

Senior Senator from Ohio—Benjamin F. Wade, President of the Senate, and Acting Vice President.
Senior Senator from California—George C. Gorham.

Maine—Lot M. Morrill, William Pitt Fessenden.
New Hampshire—Aaron H. Ogden, James W. Patterson.
Vermont—George F. Edmonds, Justin S. Morrill.
Massachusetts—Charles Sumner, Henry Wilson.
Rhode Island—William Sprague, Henry B. Anthony.
Connecticut—James Dixon, Orris S. Ferry.
New Jersey—Frederick T. Frelinghuysen, Alexander G. Cattell.
Pennsylvania—Charles R. Buxkow, Simon Cameron.
Delaware—James A. Bayard, Willard Sanbury.
Maryland—William Findley Wayson, George Vickers.
South Carolina—Thomas J. Robertson, Frederick A. Sawyer.
Alabama—Willard Warner, George E. Spencer.
Louisiana—John S. Harris, William P. Kellogg.
Ohio—Benjamin F. Wade, John Stentz.
Kentucky—Thomas C. McCraw, Garrett Davis.
Tennessee—David T. Patterson, Joseph S. Fowler.
Indiana—Thomas A. Hendricks, Oliver P. Morton.
Missouri—John B. Henderson, Charles D. Drake.
Arkansas—Alexander McDonald, Benjamin P. Rice.
Michigan—Zachariah Chandler, Jacob M. Howard.
Florida—Adonijah S. Welch, Thomas W. Osborn.
Iowa—James W. Grimes, James Harlan.
California—John Connors, Cornelius Cole.
Oregon—George H. Williams, Henry W. Corbett.
Kansas—Edmund G. Ross, Samuel C. Pomeroy.
West Virginia—Peter G. Van Winkle, Waitman T. Willey.
Kentucky—William M. Stewart, James W. Nye.
Nebraska—Thomas W. Tipton, John M. Thayer.

House of Representatives.

Schuyler Colfax, of Indiana, Speaker.
Edward McPherson, of Pennsylvania, Clerk.
Massachusetts—Jacob H. Ellis, Aaron F. Stevens, Jacob Benton.
XXXVIII.

PRESIDENT JOHNSON'S LAST ANNUAL MESSAGE,

DECEMBER 7, 1868.

The following extracts relate to reconstruction and other controverted subjects:

Fellow-Citizens of the Senate
and House of Representatives:

Upon the reassembling of Congress, it again becomes my duty to call your attention to the state of the Union, and to its continued disorganized condition under the various laws which have been passed upon the subject of reconstruction.

It may be safely assumed, as an axiom in the government of States, that the greatest wrongs inflicted upon a people are caused by unjust and arbitrary legislation, or by the unremitting decrees of despotic rulers, and that
the timely revocation of injurious and oppressive measures is the greatest good that can be conferred upon a nation. The legislator or ruler who has the wisdom and magnanimity to retrace his steps, when convinced of error, will sooner or later be rewarded with the respect and gratitude of an intelligent and patriotic people.

Our own history, although embracing a period less than a century, affords abundant proof that most, if not all, of our domestic troubles are directly traceable to violations of the organic law and excessive legislation. The most striking illustrations of this fact are furnished by the enactments of the past three years upon the question of reconstruction. After a fair trial they have already failed and proved pernicious in their results, and there seems to be no good reason why they should remain longer upon the statute-book. States to which the Constitution guarantees a republican form of government have been reduced to military depositories, in each of which the people have been made subject to the arbitrary will of the commanding general. Although the Constitution requires that each State shall be represented in Congress, Virginia, Mississippi, and Texas are yet excluded from the two Houses, and, contrary to the express provisions of that instrument, were denied participation in the recent election for a President and Vice President of the United States. The attempt to place the white population under the domination of persons of color in the South has impaired, if not destroyed, the kindly relations that had previously existed between them; and mutual distrust has engendered a feeling of animosity which, leading in some instances to collision and bloodshed, has prevented that cooperation between the two races so essential to the success of industrial enterprise in the Southern States. Nor have the inhabitants of those States alone suffered from the disturbed condition of affairs growing out of these congressional enactments. The entire Union has been agitated by grave apprehensions of troubles which might again involve the peace of the nation; its interests have been seriously affected by the disengagement of business and labor and the consequent want of prosperity throughout that portion of the country.

The Federal Constitution—the magna charta of American rights, under whose wise and salutary provisions we have successfully conducted all our domestic and foreign affairs, sustained ourselves in peace and in war, and become a great nation among the Powers of the earth—must assuredly be now adequate to the settlement of questions out of the civil war waged alone for its vindication. This great fact is made most manifest by the condition of the country when Congress assembled in the month of December, 1865. Civil strife had ceased; the spirit of rebellion had spent its entire force; in the Southern States the people had warmed into national life, and throughout the whole country a healthy reaction in public sentiment had taken place. By the application of the simple yet effective provisions of the Constitution the executive department, with the voluntary aid of the States, had brought the work of restoration as near completion as was within the scope of its authority, and the nation was encouraged by the prospect of an early and satisfactory adjustment of all difficulties. Congress, however, intervened, and, refusing to perfect the work so nearly consummated, declined to admit members from the unrepresented States, adopted a series of measures which arrested the progress of restoration, frustrated all that had been so successfully accomplished, and after three years of agitation and strife has left the country further from the attainment of union and fraternal feeling than at the inception of the congressional plan of reconstruction. It needs no argument to show that legislation which has produced such baneful consequences should be abrogated, or else made to conform to the genuine principles of republican government.

Under the influence of party passion and sectional prejudices, other acts have been passed not warranted by the Constitution. Congress has already been made familiar with my views respecting the "tenure-of-office bill." Experience has proved that its repeal is demanded by the best interests of the country, and that while it remains in force the President cannot enjoin that rigid accountability of public officers so essential to an honest and efficient execution of the laws. Its revocation would enable the executive department to exercise the power of appointment and removal in accordance with the original design of the Federal Constitution.

The act of March 2, 1857, making appropriations for the support of the army for the year ending June 30, 1858, and for other purposes, contains provisions which interfere with the President's constitutional functions as Commander in Chief of the Army, and deny to States of the Union the right to protect themselves by means of their own militia. These provisions should be at once annulled, for while the first night, in times of great emergency, seriously embarrass the Executive in efforts to employ and direct the common strength of the nation for its protection and preservation, the other is contrary to the express declaration of the Constitution, that, "a well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

It is believed that the repeal of all such laws would be accepted by the American people as at least a partial return to the fundamental principles of the Government, and an indication that hereafter the Constitution is to be made the nation's safe and unerring guide. They can be productive of no permanent benefit to the country, and should not be permitted to stand as monuments of the deficient wisdom which has characterized our recent legislation.

The condition of our finances demands the early and earnest consideration of Congress. Compared with the growth of our population, the public expenditures have reached an amount unprecedented in our history.

The population of the United States in 1790 was nearly four millions of people. Increasing each decade about thirty-three per cent., it reached in 1860 thirty-one millions—an increase of seven hundred per cent. on the population in
1700. In 1869 it is estimated that it will reach thirty-eight millions, or an increase of eighty hundred and sixty-eight per cent. in seventy-nine years.

The annual expenditures of the Federal Government in 1791 were $1,200,000; in 1820, $18,200,000; in 1850, $41,000,000; in 1860, $330,000,000, nearly $1,300,000,000, and in 1869 it is estimated that the Secretary of the Treasury, in his last annual report, that they will be $372,000,000.

The public disbursements of 1869, as estimated, with those of 1791, it will be seen that the increase of expenditure since the beginning of the Government has been eight thousand six hundred and twelve per cent., while the increase of population for the same period was only one hundred and sixty-eight per cent. Again; the expenses of the Government in 1869, the year of peace immediately preceding the war, was only $93,000,000; while in 1869, the year of peace three years after the war, it is estimated they will be $372,000,000—an increase of four hundred and eighty-nine per cent., while the increase of population was only twenty one per cent. for the same period.

These statistics further show, that in 1791 the annual national expenses, compared with the population, were little more than $4 per capita; and in 1869 but $2 per capita; while in 1869 they will reach the extravagant sum of $95 per capita.

It will be observed that all of these statements refer to and exhibit the disbursements of peace periods. It may, therefore, be of interest to compare the expenditures of the three war periods—the war with Great Britain, the Mexican war, and the war of the rebellion.

In 1814 the annual expenses incident to the war of 1812 reached their highest amount—about thirty-one millions; while our population slightly exceeded eight millions, showing an expenditure of only $38 per capita. In 1847 the expenditures growing out of the war with Mexico reached $70,000,000, and the population about twenty one millions, giving only $3.60 per capita for the war expenses of that year. In 1861 the expenditures called for by the rebellion reached the vast aggregate of $1,200,000,000, which, compared with a population of thirty-four millions, gives $38.20 per capita.

From the 4th day of March, 1869, to the 30th of June, 1869, the entire expenditures of the Government were $1,700,000,000. During that period we were engaged in wars with Great Britain and Mexico, and were involved in hostilities with powerful Indian tribes. Louisiana was purchased from France at a cost of $15,000,000. Florida was ceded to us by Spain for $5,000,000; California was acquired from Mexico for $15,000,000; and the Territory of New Mexico was obtained from Texas for the sum of $10,000,000. Early in 1861 the war of the rebellion commenced, and from the 1st of July of that year to the 30th of June, 1865, the public expenditures reached the enormous aggregate of $29,000,000,000. Three years of peace have intervened, and during that time the disbursements of the Government have considerably been $10,000,000,000, in $19,000,000,000, and in $39,000,000,000. Adding these amounts, $372,000,000, estimated as necessary for the fiscal year ending the 30th of June, 1869, we obtain a total expenditure of $1,050,000,000 during the four years immediately preceding the war, or nearly as much as was expended during the seventy two years that preceded the rebellion, and embraced the extraordinary expenditures already named.

These startling facts clearly illustrate the necessity of retrenchment in all branches of the public service. Abuses which were tolerated during the war for the preservation of the nation will not be endured by the people, now that profound peace prevails. The receipts from internal revenues and customs have during the past three years gradually diminished, and the continuance of useless and extravagant expenditures will involve us in national bankruptcy, or else make inevitable an increase of taxes, already too onerous, and in many respects objectionable on account of their inquisitorial character. One hundred millions annually are expended for the military force, a large portion of which is employed in the execution of laws both unnecessary and unconstitutional; $150,000,000 are required each year to pay the interest on the public debt; an army of tax gatherers impoverishes the nation; and public agents, placed by Congress beyond the control of the Executive, divert from their legitimate purposes large sums of money which they collect from the people, to the name of the Government. Judicial legislation and prudent economy can alone remedy defects and avert evils which, if suffered to exist, cannot fail to diminish confidence in the public councils, and weaken the attachment and respect of the people toward their political institutions. Without proper care the small balance which it is estimated will remain in the Treasury at the close of the present fiscal year will not be realized, and additional millions be added to a debt which is now enumerated by billions.

It is shown by the able and comprehensive report of the Secretary of the Treasury that the receipts for the fiscal year ending June 30, 1869, were $605,688,683, and that the expenditures for the same period were $377,340,241, leaving in the Treasury a surplus of $282,307,782. It is estimated that the receipts during the present fiscal year ending June 30, 1869, will be $314,302,686, and the expenditures $366,152,470, showing a small balance of $5,240,389 in favor of the Government. For the fiscal year ending June 30, 1870, it is estimated that the receipts will amount to $327,000,000, and the expenditures to $335,000,000, leaving an estimated surplus of $24,000,000.

It becomes proper, in this connection, to make a brief reference to our public indebtedness, which has accumulated with such alarming rapidity and assumed such colossal proportions.

In 1789, when the Government commenced operations under the Federal Constitution, it was burdened with an indebtedness of $7,000,000 created during the war of the Revolution. This amount had been reduced to $45,000,000 when, in 1812, war was declared against Great Britain. The three years' struggle that followed largely increased the national obligations, and in 1816 they had attained the sum of $127,000,000. Wiss
and economical legislation, however, enabled the Government to pay the entire amount within a period of twenty years, and the extinguishment of the national debt filled the land with rejoicing, and was one of the great events of President Jackson's administration. After its redemption a large fund remained in the Treasury, which was deposited for safe keeping with the several States, on condition that it should be returned when required by the public wants. In 1843—the year after the termination of an expensive war with Mexico—we found ourselves involved in a debt of $94,000,000; and this was the amount owed by the Government in 1860, just prior to the outbreak of the rebellion. In the spring of 1861 our civil war commenced. Each year of its continuance made an enormous addition to the debt; and when, in the spring of 1865, the nation successfully emerged from the conflict, the obligations of the Government had reached the immense sum of $2,873,992,500. The Secretary of the Treasury shows that on the 1st day of November, 1867, this amount had been reduced to $3,401,991,450; but at the same time his report exhibits an increase during the past year of $35,025,102; for the debt on the 1st day of November last is stated to have been $2,557,129,552. It is estimated by the Secretary that the returns for the past month will add to our liabilities the further sum of $11,000,000—making a total increase during the year of $40,500,000.

In my message to Congress of December 4, 1863, it was suggested that a policy should be devised, which, without being oppressive to the people, would at once begin to effect a reduction of the debt, and if persisted in discharge it fully within a definite number of years. The Secretary of the Treasury forcibly recommends legislation of this character, and justly urges that the longer it is deferred the more difficult must become its accomplishment. We should follow the wise precedents established in 1798 and 1816, and without further delay make provision for the payment of our obligations as early as a period may as practicable. The fruits of their labor should be enjoyed by our citizens, rather than used to build up and sustain moneied monopolies in our own and other lands. Our foreign debt is already computed by the Secretary of the Treasury at $500,000,000; citizens of foreign countries receive interest upon a large portion of our securities, and American tax-payers are made to contribute large sums for their support. The idea that such a debt is to become permanent should be at all times discarded, as involving taxation too heavy to be borne and payment once in every sixteen years at the present rate of interest of an amount equal to the original sum. This vast debt if permitted to become permanent increasing, must eventually be gathered into the hands of a few, and enable them to exert a dangerous and controlling power in the affairs of the Government. The borrowers would become servants to the lenders—the lenders the masters of the people. We now pride ourselves upon having given freedom to four millions of the colored race; it will then be our shame that forty million people, by their own toleration of usurpation and profi-
measured by a gold standard. Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half times in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be over anxious in exacting from the borrower rigid compliance with the terms of the contract.

If provision be made for the payment of the indebtedness of the Government in the manner suggested, our nation will rapidly recover its wonted prosperity. Its interests require that it be not prolonged beyond the period necessary to preserve the principle of a metallic or convertible currency. For this purpose let us inquire how much gold and silver could be purchased by the $700,000,000 of paper money now in circulation. Probably not more than half the amount of the latter, showing that when our paper currency is compared with gold and silver its commercial value is compressed into $350,000,000. This striking fact makes it evident that it is not well to be over anxious in exacting from the borrower rigid compliance with the terms of the contract.

The anomalous condition of our currency is in striking contrast with that which was originally designed. Our circulation now embraces, first, notes of the national banks, which are made receivable for all debts due to the Government, excluding imports, and by all its creditors, excepting in payment of interest upon its bonds and the securities themselves; second, legal tender notes issued by the United States, and which the law requires shall be received as well in payment of all debts between citizens as of all Government dues, excepting import duties; and, third, gold and silver coin.

The law of demand and supply, though it should not be agreed. Nor can it be controlled by legislation, but must be left to the irrevocable laws which everywhere regulate commerce and trade. The circulating medium will ever irresistibly flow to those points where it is in greatest demand. The law of demand and supply is as unerring as that which regulates the tides of the ocean; and indeed current, like the tides, has its ebbs and flows throughout the commercial world.

At the beginning of the rebellion the bank-note circulation of the country amounted to not much more than $300,000,000; now the circulation of national bank notes, which are known as "legal-tenders" is nearly $700,000,000. While it is urged by some that this amount should be increased, others contend that a decided reduction is absolutely essential to the best interests of the country. In view of these diverse opinions, it may be well to ascertain the real value of our paper issues, when compared with a metallic or convertible currency. For this purpose let us inquire how much gold and silver could be purchased by the $700,000,000 of paper money now in circulation. Probably not more than half the amount of the latter, showing that when our paper currency is compared with gold and silver its commercial value is compressed into $350,000,000. This striking fact makes it obvious that the six per cent. interest now paid by the national banks to convert them, without loss, into specie or its equivalent, is a reduction of our paper-circulating medium need not necessarily follow. Thus, however, would depend upon the law of demand and supply; though it should be borne in mind that by making legal-tender bank notes convertible into coin or its equivalent, their present specie value in the hands of their holders would be enhanced one hundred per cent.

Legislation for the accomplishment of a result so desirable is demanded by the highest public considerations. The Constitution contemplates that the circulating medium of the country shall be uniform in quality and value. At the time of the formation of that instrument the country had just emerged from the war of the Revolution, and was suffering from the effects of a redundant and worthless paper currency. The sages of that period were anxious to protect their posterity from the evils which they themselves had experienced. Hence, in providing a circulating medium, they conferred upon Congress the power to coin money and regulate the value thereof. At the same time prohibiting the States from making anything but gold and silver a tender in payment of debts.

The anomalous condition of our currency is in striking contrast with that which was originally designed. Our circulation now embraces, first, notes of the national banks, which are made receivable for all debts due to the Government, excluding imports, and by all its creditors, excepting in payment of interest upon its bonds and the securities themselves; second, legal tender notes issued by the United States, and which the law requires shall be received as well in payment of all debts between citizens as of all Government dues, excepting import duties; and, third, gold and silver coin. The operation of our present system of finance, however, the metallic currency, when collected, is reserved only for one class of Government creditors, who, holding its bonds semi-annually receive their notes in coin from the national Treasury. There is no reason which will be accepted as satisfactory by the people why those who defend us on the land and protect us on the sea; the pensioner upon the gratitude of the nation, bearing the scars and wounds received while
in its service; the public servants in the various Departments of the Government; the farmer who supplies the soldiers of the army and the sailors of the navy; the artisan who toils in the nation's workshops, or the mechanics and laborers who build its edifices and construct its forts and vessels of war, should, in payment of their just and hard earned dues, receive depreciated paper, while another class of their countrymen, no more deserving, are paid in coin of gold and silver. Equal and exact justice requires that all the creditors of the Government should be paid in a currency possessing a uniform value. This can only be accomplished by the restoration of the currency to the standard established by the Constitution; and by this means we would remove a discrimination which may, if it has not already done so, create a prejudice that may become deep-rooted and wide-spread, and imperil the national credit.

The feasibility of making our currency correspond with the constitutional standard may be seen by reference to a few facts derived from our commercial statistics. The aggregate product of precious metals in the United States from 1849 to 1867 amounted to $1,171,000,000, while for the same period the net exports of specie were $741,000,000. This shows an excess of produce over net exports of $430,000,000. There are in the Treasury $103,495,956 in coin, in circulation in the States on the Pacific coast about $45,000,000, and a few millions in the national and other banks—in all less than $160,000,000. Taking into consideration the specie in the country prior to 1849 and as of 1867, and we have more than $300,000,000 not accounted for by exportation or by the returns of the Treasury, and therefore most probably remaining in the country.

These important facts, and show how completely the inferior currency will supersede the better, forcing it from circulation among the masses, and causing it to be exported as a mere article of trade, to add to the money capital of foreign lands. They show the necessity of retaining our paper money, that the return of gold and silver to the avenues of trade may be invited, and a demand created which will cause the retention at home of at least so much of the productions of our rich and inexhaustible gold-bearing fields as may be sufficient for purposes of circulation. It is unreasonable to expect a return to a sound currency so long as the Government and banks, by continuing to issue irredeemable notes, fill the channel of circulation with depreciated paper. Notwithstanding a coinage by our mints, since 1849, of $574,000,000, the people are now strangers to the currency which was designed for their use and benefit, and specimens of the precious metals bearing the national device are seldom seen, except when produced to gratify the interest excited by their novelty. Depreciated paper is to be continued as the permanent currency of the country, and all our coin is to become a mere article of traffic and speculation, to the enhancement in price of all that is indebted to the comfort of the people, it would be wise economy to abolish our mints, thus saving the nation the care and expense incident to such establishments, and let all our precious metal be exported in bullion. The time has come, however, when the Government and national banks should be required to take the most efficient steps and make all necessary arrangements for a resumption of specie payments. Let specie payments once be earnestly inaugurated by the Government and banks, and the value of the paper circulation would directly approximate a specie standard.

Specie payments having been resumed by the Government and banks, all notes or bills of paper issued by either of a less denomination than twenty dollars should by law be excluded from circulation, so that the people may have the benefit and convenience of a gold and silver currency which, in all their business transactions, will be uniform in value at home and abroad.

"Every man of property or industry, every man who desires to preserve what he honestly possesses, or to obtain what he can honestly earn, has a direct interest in maintaining a safe circulating medium—such a medium as shall be real and substantial, not liable to vibrate with opinions, not subject to be blown up or blown down by the breath of speculation, but to be made stable and secure. A disordered currency is one of the greatest political evils. It undermines the virtues necessary for the support of the social system, and encourages propensities destructive of its happiness. It wars against industry, frugality, and economy, and it fosters the evil spirit of extravagance and speculation." It has been asserted by one of our profound and most gifted statesmen, that "all the contrivances for cheating the laboring classes of mankind have been more effectual than that which debases them with paper money. This is the most effectual of all inventions to fertilize the rich man's fields by the sweat of the poor man's brow. Ordinary tyranny, oppression, excessive taxation—these bear hardly on the happiness of the mass of the community compared with the fraudulent currency and the robberies committed by depreciated paper. Our own history has recorded for our instruction enough and more than enough of the demoralizing tendency, the injustice, and the intolerable oppression on the virtuous and well-disposed of a degraded paper currency authorized by law or in any way countenanced by Government." It is one of the most successful devices, in times of peace or war, of expansions or revulsions, to accomplish the transfer of all the precious metals from the great mass of the people into the hands of the few, where they are hoarded in secret places or deposited under bolts and bars, while the people are left to endure all the inconvenience, sacrifice, and demoralization resulting from the use of depreciated and worthless paper.

During the fiscal year ending June 30, 1868, six million six hundred and fifty-five thousand seven hundred acres of public land were disposed of.

On the 30th of June, 1868, one hundred and sixty-nine thousand six hundred and forty-three names were borne on the pension rolls, and during the year ending on that day the total amount paid for pensions, including the expenses...
sanction the acquisition and incorporation shown to be $175,545,343. For this single branch an excess of expenditures of $43,991.

The strength of our military force on the 30th of September last was forty-eight thousand men, and it is computed that, by the 1st of January next, this number will be decreased to forty-three thousand. It is the opinion of the Secretary of War that within the next year a considerable diminution of the infantry forces may be made without violation of national security; and in view of the great expense attending the military peace establishment, and the absolute necessity of retrenchment wherever it can be applied, it is hoped that Congress will sanction the reduction which his report recommends.

While in 1860, sixteen thousand three hundred men cost the nation $10,472,000, the sum of $25,683,000 is estimated as necessary for the support of the army during the fiscal year ending June 30, 1870. The estimates of the War Department for the last two fiscal years were, for 1867, $33,914,461; and for 1868, $30,005,068. The actual expenditures during the same periods were, respectively, $35,244,415 and $23,246,648. The estimate submitted in December last for the fiscal year ending June 30, 1869, was $22,503,677; the expenditures for the first quarter, ending the 30th of September last, were $37,219,117, and the Secretary of the Treasury gives $35,000,000 as the amount which will probably be required during the remaining three quarters, if there should be no reduction of the army—making its aggregate cost for the year considerably in excess of $20,000,000. The difference between the estimates and expenditures of the three fiscal years which have been named is thus shown to be $75,443,143 for this single branch of the public service.

The total number of vessels in the navy is two hundred and six, mounting seventeen hundred and forty-three guns. Eighty-one vessels of every description are in use, armed with six hundred and ninety-six guns. The number of enlisted men in the service, including apprentices, has been reduced to eight thousand five hundred.

The ordinary postal revenue for the fiscal year ending June 30, 1869, was $16,292,600, and the total expenditures, embracing all the service, appropriations have been made by Congress, amounted to $22,789,582, showing an excess of expenditures of $6,536,991.

Comprehensive national policy would seem to sanction the acquisition and incorporation shown to be $78,654,343. For an election of President and Vice President by a direct vote of the people, instead of through the agency of electors, and making them ineligible for re-election to a second term.

Second. For a distinct designation of the person who shall discharge the duties of President, in the event of a vacancy that office by the death, resignation, or removal of both the President and Vice President.

Third. For the election of Senators of the United States directly by the people of the several States, instead of by the legislatures; and for the limitation to a period of years of the terms of federal judges.

Fourth. For the limitation to a period of years of the terms of federal judges.

my administration to these principles, I have on no occasion lent support or toleration to unlawful expeditions for afoot upon the plea of republican propagation or of national extension or aggrandizement. The necessity, however, of repressing such unlawful movements clearly indicates the duty which rests upon us of adapting our legislative action to the new circumstances of a decline of European monarchical power and influence, and the increase of American republican ideas, interests, and sympathies.

It cannot be long before it will become necessary for this Government to lend some effective aid to the solution of the political and social problems which are continually before the world by the two republics of the Island of St. Domingo, and which are now disclosing themselves more distinctly than heretofore in the Island of Cuba. The subject is commended to your consideration with all the more earnestness because I am satisfied that the time has arrived when even so direct a proposition for an annexation of the two republics of the Island of St. Domingo would not only receive the consent of the people interested, but would also give satisfaction to all our foreign relations.

I am aware that upon the question of further extending our possessions it is apprehended by some that our political system cannot successfully be applied to an area more extended than our continent; but the conviction is rapidly gaining ground in the American mind that, with the increased facilities for intercommunication between all portions of the earth, the principles of free government, as embraced in our Constitution, if faithfully maintained and carried out, would prove of sufficient strength and breadth to comprehend within their sphere and influence the civilized nations of the world by the two republics of the Island of St. Domingo, and which are now disclosing themselves more distinctly than heretofore in the Island of Cuba. The subject is commended to your consideration with all the more earnestness because I am satisfied that the time has arrived when even so direct a proposition for an annexation of the two republics of the Island of St. Domingo would not only receive the consent of the people interested, but would also give satisfaction to all our foreign relations.

I renew the recommendation contained in my communication to Congress dated the 18th July last, a copy of which accompanies this message, that the judgment of the people should be taken on the propriety of so amending the Federal Constitution that it shall provide—

First. For an election of President and Vice President by a direct vote of the people, instead of through the agency of electors, and making them ineligible for re-election to a second term.

Second. For a distinct designation of the person who shall discharge the duties of President, in the event of a vacancy in that office by the death, resignation, or removal of both the President and Vice President.

Third. For the election of Senators of the United States directly by the people of the several States, instead of by the legislatures; and for the limitation to a period of years of the terms of federal judges.

Fourth. For the limitation to a period of years of the terms of federal judges.

Profoundly impressed with the propriety of making these important modifications in the Constitution, I respectfully submit them for the early and mature consideration of Congress. We should as far as possible remove all pretext for violations of the organic law, by remedying such imperfections as time and experience may develop, ever remembering that "the Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacutely obligatory upon all."
In the performance of a duty imposed upon me by the Constitution, I have thus communicated to Congress information of the state of the Union, and recommended for their consideration such measures as have seemed to me necessary and expedient. If carried into effect, they will hasten the accomplishment of the great and beneficent purposes for which the Constitution was ordained, and which it comprehensively states were "to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity." In Congress are vested all legislative powers, and upon them devolves the responsibility as well for framing unwise and excessive laws, as for neglecting to devise and adopt measures absolutely demanded by the wants of the country. Let us earnestly hope that before the expiration of our respective terms of service, now rapidly drawing to a close, an all-wise Providence will so guide our counsels as to strengthen and preserve the Federal Union, inspire reverence for the Constitution, restore prosperity and happiness to our whole people, and promote "on earth peace, good will toward men." ANDREW JOHNSON.

WASHINGTON, December 9, 1868.

XXXIX.

POLITICAL VOTES IN THIRD SESSION OF FORTIETH CONGRESS.

CONDEMNATION OF PRESIDENT JOHNSON'S PROPOSITION RESPECTING THE PAYMENT OF THE PUBLIC DEBT.

Condemnatory Resolutions.

IN SENATE.

1868, December 14—Mr. Willey submitted this resolution, which was reported from the Committee on Finance by Mr. Cattell, December 16:

Resolved, That the Senate, properly cherishing and upholding the good faith and honor of the nation, do hereby utterly disapprove of and condemn the sentiments and propositions contained in so much of the late annual message of the President of the United States as reads as follows:

"It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of fact, it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half times in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be over-anxious in exacting from the borrower rigid compliance with the letter of the bond."

Mr. Hendricks moved this as a substitute:

That the Senate cordially endorse the sentiments in the President's message, "that our national credit should be sacredly observed," and declare that the public debt should be paid as rapidly as practicable, exactly in accordance with the terms of the contracts under which the several loans were made, and where the obligations of the Government do not expressly state upon their face, or the law under which they were issued does not provide, that they shall be paid in coin, they ought in right and justice to be paid in the lawful money of the United States.

Which was disagreed to—yeas 7, nays 44, as follows:


December 18—The resolution was adopted—yeas 43, nays 6, as follows:


IN HOUSE

1865, December 14.—Mr. Broomall moved that the rules be suspended, so as to enable him to submit the following preamble and resolution:

Whereas the President of the United States in his annual message to the Fortieth Congress at its third session, says: 'It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of facts it would seem best to recognize and submit to the public creditor a fair and liberal compensation for the use of their capital, and with this they should be satisfied.

The lessons of the past admonish the lender that it is not well to be over anxious in exacting from the borrower rigid compliance with the letter of the bond; and whereas such sentiments, if permitted to go to the world without immediate protest, may be understood to be the sentiments of the people of the United States and their Representatives in Congress: therefore,

Resolved, That all forms and degrees of repudiation of national indebtedness are odious to the American people. And that under no circumstances will their Representatives consent to offer the public creditor, as full compensation, a less amount of money than that which the Government contracted to pay him.

The rules were suspended—yeas 135, nays 29.

A division of the question was called, the first division to include the preamble and the first sentence of the resolution. The previous question was called and seconded, and the main question ordered. A motion to reconsider the vote ordering the main question was tabled, yeas 134, nays 37. The question recurring on the first division to include the preamble and the first sentence of the resolution—was then agreed to, yeas 155, nays 6, not voting 60, as follow:


The second division of the question—being the remaining portion of the preamble and resolution—was agreed to without a division.

Vote on Minority Representation.

IN HOUSE

1869, January 10.—Pending a bill (H. E. 1824) to preserve the purity of elections in the several Territories, Mr. Phelps moved this as an additional section:

"That the legislatures of the Territories hereinafore named shall, at their first session after the passage of this act, provide by law for a reapportionment of the members of the several legislatures as nearly equal as may be among council and legislative districts, entitled each to elect three members of council and three representatives; and that the outlying districts, if any, to which it may be necessary that a less number than three shall be apportioned, shall be located in the least populous portions of said Territories; and that at the next legislative elections thereafter in said Territories every qualified voter shall be entitled to three votes for member of council, and three votes for member of the house of representatives, with the privilege of cumulative casting said votes upon any one or two of the candidates for either house respectively, it being the intent and meaning of this act to secure an equitable and just representation to minorities in said Territories in all cases where minority parties exceed in number two fifths of the electoral body."

Which was disagreed to—yeas 49, nays 116, as follow, (not voting, 57):


Removal of Disabilities.

In Senate.
1869, December 9—Pending the bill to relieve from disabilities Franklin J. Moses, of South Carolina—

Mr. Garrett Davis moved to add the words, "and all other citizens of the State of South Carolina."—

Which was disagreed to—yeas 95, nays 44, as follows:

Yea—Messrs. Vayard, Davis, Dixon, Doollott, Ferry, McCreary, Norton, Patterson of Tennessee, Southard—95.

[No general disability bill was passed as either the third session of the Forty-first Congress or the first session of the Forty-First.]

The Representation of Georgia

In House.

1869, January 28—Mr. Paine, from the Committee on Reconstruction, reported the following preamble and resolution:

Whereas it is provided by the reconstruction act, passed March 2, 1867, that until the people of the lately rebelled States shall be by law admitted to representation in Congress, any civil government which may exist therein shall be deemed provisional only, and that no persons shall be eligible to offices in such provisional government who are disqualified for office by the fourteenth amendment of the Constitution of the United States; and whereas it is reported that the legislature of Georgia has expelled the colored members thereof, and admitted to their seats white men who received minorities of votes at the polls, and that members of said legislature who had been elected thereto by the votes of colored men joined in such action, and that twenty-seven disqualified white men hold seats in said legislature in violation of the fourteenth amendment of the Constitution and of the recon­struction acts of Congress; and whereas Senators from Georgia have not yet been admitted to the Senate of the United States; therefore;

Resolved. That the Committee on Reconstruction be ordered to inquire and report whether any, and if any, what, further action ought to be taken during the Forty-first Congress respecting the representation of Georgia in this House.

Under the operation of the previous question, the resolution was agreed to—yeas 125, nays 34, not voting 60.


The preamble was then agreed to—yeas 135, nays 34, not voting 63.


The Committee made no report.

Counting the Electoral Vote.

In Senate.

1869, February 6—Mr. Edmunds submitted this concurrent resolution:

Whereas the question whether the State of Georgia has become and is entitled to representation in the two houses of Congress is now pending and undecided; and whereas by the joint resolution of Congress passed July 23, 1868, entitled "A resolution excluding from the electoral college votes of States lately in rebellion which shall not have been reorganized," it was provided that no electoral votes from any of the States lately in rebellion should be received or counted for President or Vice President of the United States until, among other things, such State should have become entitled to representation in Congress, pursuant to acts of Congress in that behalf: therefore,

Resolved by the Senate, (the House of Repre­sentatives concurring) That on the assem­bling of the two houses on the second Wednesday of February, 1869, for the counting of the electoral votes for President and Vice President, as provided by law and the joint rules, if the counting or omitting to count the electoral votes, if any, which may be presented, as of the State of Geo­rgia, shall not essentially change the result, in that case they shall be reported by the President of the Senate in the following manner: "Were the votes presented as of the State of Georgia to be counted, the result would be for ______, for President of the United States, ______ votes; if not counted, for ______, for President of the United States, ______ votes; but in either case ______ is elected President of the United States; and in the same manner for Vice Pres­ident.

February 8—It was adopted—yeas 34, nays 11, as follows:


In House.

February 8—The rules were suspended—yeas 97, nays 13, not voting 107—so as to enable the House to take up this resolution. The vote was as follows:
The resolution was then taken up, and concurred in.

In the House of Representatives on the 10th of February, 1877.

The joint resolution of the Senate of the United States, to wit:

Whereas, the Senate of the United States have, on the 6th instant, passed a resolution, disapproving of the action of the electors of the State of Georgia in their votes for the President and Vice-President of the United States, at the Federal election of November last past, and thereupon declared the said votes null and void; and whereas, the Senate of the United States have, on the same day, referred the said resolution of the House of Representatives to the Committee on the Conduct of Elections for consideration:

Now, therefore, Be it resolved, That the said resolution passed by the Senate of the United States, on the 6th instant, is respectfully referred to the Committee on the Conduct of Elections to be held in the Hall of the House of Representatives, on Wednesday, the 10th instant, at 12 o'clock, to consider the same, and report the same, with or without amendments, to the House of Representatives.

In pursuance of the said resolution, the said Committee met in the Hall of the House for the purpose of considering the said resolution, and reported the same, as amended, to the House of Representatives.

The House of Representatives then took up the said resolution, and concurred in the report of the Committee of the Whole House on the state of the Union.

The resolution was then taken up, and concurred in.

The House then proceeded to the consideration of the beverage, and the House of Representatives then adjourned to meet at 2 o'clock on the 11th instant.

Mr. Biddle, as Chairman of the Committee of the Whole House on the state of the Union, presented the report of the Committee of the Whole House on the state of the Union, which was read, and ordered to be printed, and then the House adjourned to meet on the 11th instant, at 2 o'clock.
March 12—The House passed it—yeas 111, nays 56, (not voting 30) as follow:


The bill was approved by President Grant, March 18, 1869.

BILL TO STRENGTHEN THE PUBLIC CREDIT.

Fortieth Congress.

In House.

1869, February 24—This bill passed:

"An Act to strengthen the public credit, and relating to contracts for the payment of coin."

Be it enacted, &c., That the word "white," wherever it occurs in the laws relating to the public credit, or in the charter or ordinances of the cities of Washington or Georgetown, and operates as a limitation on the right of any elector of such District, or of either of the cities, to hold any office, or to be selected and to serve as a juror, shall be hereby repealed; and it shall be unlawful for any person or officer to enforce said limitation after the passage of this act.

In House.

March 2—It passed, without a call of the yeas and nays.

March 3—It was presented to the President (Johnson), and "pocketed."

Forty First Congress, First Session.

March 8—The Senate passed the same bill, without a division.

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The House voted on the question. Shall the vote of Georgia be counted? Yeas 41, nays 150, (not voting 31) as follow:


BE IT ENACTED, That any contract hereafter made specifically payable in coin shall be legal and valid, and may be enforced according to its terms.

February 27—Mr. Henderson moved to amend the first clause of the second section by making it read as follows:

That any contract hereafter made specifically payable in coin shall be legal and valid, and may be enforced according to its terms.

Which was not agreed to—yeas 10, nays 35, as follows:


Mr. Bayard moved to strike out the second section, which was not agreed to—yeas 7, nays 36, as follows:


Mr. Henderson moved to amend the first section so as to make it read as follows:

That it is hereby provided and declared that the faith of the United States is solemnly pledged to an early resumption of specie payment by the Government in order that conflicting questions touching the mode of discharging the public indebtedness may be settled and that the same may be paid in gold.

Which was not agreed to—yeas 8, nays 34, as follow:

YEAS—Messrs. Cole, Davis, Henderson, Morton, Pom
eroy, Robertson, Ross, Spencer—8.


The bill, as amended by the report of the Committee on Finance, was then passed—yeas 30, nays 16, as follow:


The title was amended so as to read "An act in relation to the public debt."

March 2—The House non-concurring in the amendments of the Senate, and a committee of conference (Messrs. Schenck, Allen, and Nicklack) appointed.

Same day—The Senate insisted on its amendments, and appointed Messrs. Sherman, Williams, and Morton a conference committee.

March 3—The committee reported the following bill:

An Act to strengthen the public credit, and relating to contracts for the payment of coin.

Be it enacted, etc., That in order to remove any doubts as to the purpose of the Government to discharge all its obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared, that the faith of the United States is solemnly pledged to the payment in coin, or its equivalent, of all the obligations of the United States not bearing interest known as United States notes, and of all the interest-bearing obligations of the United States except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver. But none of said interest-bearing obligations shall not already due shall be redeemed or paid before maturity, unless at such time United States notes shall be convertible into coin at the option of the holder or unless at such time bonds of the United States bearing a lower rate of interest than the bonds to be redeemed can be sold at par in coin. And the United States also solemnly pledges its faith to make provision at the earliest practicable period for the redemption of the United States notes in coin.

Sec. 2. That any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin, or a sale of property, or the rendering of labor or service of any kind, the price of which, as carried into the contract, may have been adjusted on the basis of the coin value thereof at the time of such sale or the rendering of such service or labor, shall be legal and valid, and may be enforced to its terms; and on the trial of a suit brought for the enforcement of any such contract, proof of the real consideration may be given.

Same day—The Senate agreed to the report—yeas 21, nays 24, as follow:


The previous question on the engrossment of the bill was resumed.

March 3—The bill as amended by the report of the Committee on Finance, was then passed—yeas 24, nays 21, as follow:


The President (Johnson) "pocketed" the bill.

For other votes on this subject in first session, Forty-First Congress, see a subsequent chapter.

TENURE-OF-OFFICE ACT.

Fortieth Congress, Third Session.

In House.

1869, January 11—A bill to repeal an act regulating the tenure of certain civil offices, passed March 2, 1867,* was introduced by Mr. H. D. Washburn, and read a first and second time.

The previous question on the engrossment of the bill was ordered to be taken up when the House should rise for the dinner hour.

* For copy of the act, and votes on passage, see Political Manuel for 1867, pp. 16, 81; and Hand Book of Politics, pp. 158, 177.
bill was ordered—yeas 116, nays 47; and the bill was ordered engrossed, and was read a third time. It was then passed—yeas 121, nays 47, not voting 53, as follow:


A RESOLUTION proposing an amendment to the Constitution of the United States.

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

ARTICLE XV.

Sec. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Sec. 2. The Congress shall have power to enforce this article by appropriate legislation.

Schuyler Colfax,

Speaker of the House of Representatives.

B. F. Wade,

President of the Senate pro tempore.

The Final Vote

IN SENATE.

1869, February 26—The report of the committee of conference, recommending the passage of the amendment as printed above was agreed to—yeas 39, nays 13, as follow:


XL.

XVIII CONSTITUTIONAL AMENDMENT.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both houses concurring,) That the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said legislatures, shall be held as part of said Constitution, namely:

ARTICLE

Sec. 1. The right of any citizen of the United States to vote shall not be denied or abridged by the United States or any State by reason of race, color, or previous condition of slavery of any citizen or class of citizens of the United States.

Sec. 2. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

The vote was yeas 150, nays 42, not voting 31, as follow:


Same day—An amendment by Mr. Bingham, and an amendment to the amendment by Mr. Shellabarger pending, the House voted as follows upon them:

Mr. Bingham's amendment was to substitute the following for the first section of the said joint resolution:

No State shall make or enforce any law which shall abridge the right of citizens of the United States to vote for public officers of the United States, or to hold any office of trust or profit under them; shall deny or abridge to any male citizen of the United States the right to vote for the nomination of president or vice-president of the United States; or shall deny or abridge to any male citizen of the United States the right to vote in any State election for public officers of the United States, and to such as shall have actually resided for a period of one year next preceding such election, subject to such registration laws and laws prescribing local residence as the State may enact, except such of said citizens as shall engage in rebellion or insurrection, or who may have been, or shall be, duly convicted of treason or other infamous crimes.

Mr. Shellabarger's amendment to the amendment was to strike out the above, and insert what follows:

No State shall make or enforce any law which shall deny or abridge to any male citizen of the United States the right to vote in any State election for public officers of the United States, and to such as shall have actually resided for a period of one year next preceding such election, subject to such registration laws and laws prescribing local residence as the State may enact, except such of said citizens as shall engage in rebellion or insurrection, or who may have been, or shall be, duly convicted of treason or other infamous crimes.

The resolution was then engrossed and read a third time—yeas 144, nays 45, not voting 33, and passed as above.

Proceedings upon it in the Senate

IN SENATE.

On June 22, 1864, the Senate reconvened to consider the resolution. The proceedings are recorded in the minutes of the Senate, and the resolution ultimately passed.
States to vote and hold office shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

February 8—Mr. Williams moved to amend the amendment by striking out all after the words "section 1," and inserting:

Congress shall have power to abolish or modify any restrictions upon the right to vote or hold office prescribed by the constitution or laws of any State.

Which was disagreed to.

Mr. Drake moved to substitute for the amendment of Mr. Stewart the following:

No citizen of the United States shall, on account of race, color, or previous condition of servitude, be, by the United States or by any State, denied the right to vote or hold office.

Which was disagreed to.

Mr. Howard moved to substitute for the amendment of Mr. Stewart the following:

Citizens of the United States of African descent shall have the same right to vote and hold office in States and Territories as other citizens, electors of the most numerous branch of their respective legislatures.

Which was disagreed to—yeas 16, nays 35, as follow:


Mr. Warner moved to substitute for the amendment of Mr. Stewart the following:

The right of citizens of the United States to hold office shall not be denied or abridged by the United States or any State on account of property, race, color, or previous condition of servitude; and every male citizen of the United States of the age of twenty-one years and over, and who is of sound mind, shall have an equal vote at all elections in the State in which he shall have actually resided for a period of one year next preceding such election, except such as may thereafter engage in insurrection or rebellion against the United States, and each shall be duly convicted of treason, felony, or other infamous crime.

Which was disagreed to.

February 9—Mr. Wilson moved to amend by substituting the following:

There shall be no discrimination in any State among the citizens of the United States in the exercise of the elective franchise in any election therein, or in the qualifications for office in any State, on account of race, color, nativity, property, education or religious belief.

Which was disagreed to—yeas 19, nays 24, as follow:


Mr. Sawyer moved to amend by substituting the following:

The right to vote and hold office in the United States and the several States and Territories shall belong to all male citizens of the United States who are twenty-one years old, and who have not been, and shall not be, duly convicted of treason or other infamous crime:

Provided, That nothing herein contained shall deprive the several States of the right to make such registration laws as shall be deemed necessary to guard the purity of elections, and to fix the terms of residence which shall precede the exercise of the right to vote: And provided, That the United States and the several States shall have the right to fix the age and other qualifications for office under their respective jurisdictions, which said registration laws, terms of residence, age, and other qualifications shall be uniformly applicable to all male citizens of the United States.

Which was disagreed to.

Mr. Henderson moved to add to Mr. Stewart's amendment the following:

Nor shall the right to vote, after the first day of January, 1872, be denied or abridged for offences now committed, unless the party to be affected shall have been duly convicted thereof.

Which was disagreed to.

Mr. Fowler moved to amend by substituting the following:

All the male citizens of the United States, residents of the several States now or hereafter comprehended in the Union, of the age of twenty-one years and upward, shall be entitled to an equal vote in all elections in the State wherein they shall reside, the period of such residence as a qualification for voting to be decided by each State, except such citizens as shall engage in rebellion or insurrection, or shall be duly convicted of treason or other infamous crime.

Which was disagreed to—yeas 9, nays 35, as follow:


On motion of Mr. Conness, the word "or" after the words "United States," where it occurs, was made to read "nor."

Mr. Vickers moved to add to Mr. Stewart's amendment the following:

Nor shall the right to vote be denied or abridged because of participation in the recent rebellion.

Which was disagreed to—yeas 21, nays 32, as follow:

YEAS—Messrs. Bayard, Buckingham, Davis, Dixon, Do­litt­le, Ferry, Fowler, Grimes, Harris, Hendricks, Fre­linghuysen, Harris, Howard, Howe, Morgan, Morrill of Vermont, Morton, Nye, Patterson of New Hamp­shire, Pool, Ramsey, Bloy, Robertson, Sawyer, Spencer, Stewart, Tipton, Trumbull, Vickers—21.

the right of citizens of the United States to vote for electors of President and Vice President, and members of the House of Representatives of the United States, shall not be denied or abridged by the United States nor by any State, on account of race, color, or previous condition of servitude.

Which was disagreed to—yea 12, nays 27, as follow:


Mr. Wilson moved to amend Mr. Stewart's amendment by substituting for it the following:

No discrimination shall be made in any State among the citizens of the United States in the exercise of the elective franchise, or in the right to hold office in any State, on account of race, color, nativity, property, education, or creed.

Which was agreed to—yea 31, nays 27, as follow:

YEAS—Messrs. Anthony, Bayard, Buckalew, Colby, Conkling, Conn, Croghan, Draper, Fessenden, Frelinghuysen, Harris, How, How, McDonald, Morgan, Morrison of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pool, Ramsey, Rice, Robertson, Ross, Sawyer, Sherman, Spencer, Stewart, Sumner, Thayer, Tipton, Trumbull, Vickers, Wade, Warner, Welch, Willey, Williams, Wilson, Yates—42.

Mr. Wilson moved to amend Mr. Stewart's amendment by substituting for it the following:

The amendments to "conventions" in the States instead of the legislatures; which was disagreed to—yea 11, nays 45, as follow:


Mr. Morton moved to amend by adding the following as article XVI:

The second clause, first section, second article of the Constitution of the United States shall be amended to read as follows: Each State shall appoint, by a vote of the people thereof qualified to vote for representatives in Congress, a number of electors equal to the number of senators and representatives to which the State may be entitled in Congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector; and the Congress shall have power to prescribe the manner in which such electors shall be chosen by the people.

Which was disagreed to—yea 27, nays 29, as follow:


Mr. Sumner then moved to strike out all after the enacting clause, and insert as follows:

That the right to vote, to be voted for, and to hold office, shall not be denied or abridged anywhere in the United States under any pretence of race or color; and all provisions in any State constitutions, or in any laws, State, territorial, or municipal, inconsistent herewith, are hereby declared null and void.

SEC. 3. And be it further enacted, That any person who, under any pretence of race or color, willfully hinders or attempts to hinder any citizen of the United States from being registered, or from voting, or from being voted for, or from holding office, or who attempts by menace to deter any such citizen from the exercise or enjoyment of the rights of citizenship above mentioned, shall be punished by a fine not less than one hundred nor more than three thousand dollars, or by imprisonment in the common jail for not less than thirty days nor more than one year.

SEC. 3. And be it further enacted, That every person legally engaged in preparing a register of voters, or in holding or conducting an election, who willfully refuses to register the names of such electors, or to receive, count, return, or otherwise give the proper legal effect to the vote of any citizen under any pretence of race or color, shall be punished by a fine not less than fifty nor more than four thousand dollars, or by imprisonment,
ment in the common jail for not less than three
calendar months nor more than two years.

SEC. 4. And be it further enacted, That the
district courts of the United States shall have
exclusive jurisdiction of all offenses against this
act; and the district attorneys, marshals, and
deputy marshals, the commissioners appointed
by the circuit and territorial courts of the United
States, with powers of arresting, imprisoning, or
bailing offenders, and every other officer specially
empowered by the President of the United States,
shall be, and they are hereby, required, at the
expense of the United States, to institute pro-
cedings against any person who violates this
act, and cause him to be arrested and imprisoned or
bailed, as the case may be for trial before such
court, by which act is annulment of the

time, such of said citizens as have engaged or shall
engage in such labor or service, in any State,
ecclesiastical or other establishment nor for such
reason, as shall be prescribed by law, except to
be denied or abridged on account of race, color,
nationality, property, religious belief, or previous
condition of servitude.

SEC. 5. And be it further enacted, That every
citizen unlawfully deprived of any of the rights
of citizenship secured by this act under any pre-
tense of race or color, may maintain a suit
denied or abridged on account of race, color,
nationality, property, religious belief, or previous
condition of servitude.

The resolution was then reported to the
Senate, and the question being on its concurrence in
the amendment made in Committee of the Whole,
Mr. Warner moved to substitute for the arti-
dle adopted in committee the following:

SEC. 1. No State shall make or enforce any
law which shall abridge or deny to any male
citizen of the United States in the exercise of the
elective franchise or in the right to
vote.*

Mr. Morton then offered the amendment offered
by him in Committee of the Whole, proposing
an additional article as Article XVI, and re-
ferred, as follows:

The second clause, first section, second article of the Constitution of the United States shall be
amended to read as follows: Each State shall
appoint, by a vote of the people thereof qualified
to vote for representatives in Congress, a number
of electors equal to the whole number of senators
and representatives to which the State may be
entitled in Congress; but no senator or rep-
resentative, or person holding an office of trust
or profit under the United States, shall be ap-
pointed an elector, and the Congress shall have
power to prescribe the manner in which such
electors shall be chosen by the people.

The resolution was then agreed to—yeas 9, nays 46, as
follow:

YEASEMESSRS. Abbott, Alden, Buckalew, Cameron, Cattell, Coli, Conk-
ling, Corbett, Dawson, Edmands, Ferris, Fessen-
den, Fowler, Grimes, Harlan, How, Kellogg, Mc-
Murdie, Merrill of Maine, Morton, Osborn, Patterson of
New Hampshire, Pool, Rice, Robertson, Ross, Saw-
yer, Spencer, Thayer, Vickers, Wade, Warner, Wel-
ch, White, Willey, Williams—46.

Mr. Wilson moved to reconsider this vote;
which was disagreed to—yeas 28, nays 25, as
follow:

YEASEMSSRS. Abbott, Alden, Buckalew, Cameron, Cattell, Coli, Conk-
ling, Corbett, Dawson, Edmands, Ferris, Fessen-
den, Fowler, Grimes, Harlan, How, Kellogg, Mc-
Murdie, Merrill of Maine, Morton, Osborn, Patterson of
New Hampshire, Pool, Rice, Robertson, Ross, Saw-
yer, Spencer, Thayer, Vickers, Wade, Warner, Wel-
ch, White, Willey, Williams—28.

The resolution as amended—being the subti-

tude offered by Mr. Wilson and the additional
article offered by Mr. Morton—was then passed
—yeas 49, nays 16, as follow:

YEASEMSSRS. Abbott, Alden, Buckalew, Cameron, Cattell, Coli, Conk-
ling, Corbett, Dawson, Edmands, Ferris, Fessen-
den, Fowler, Grimes, Harlan, How, Kellogg, Mc-
Murdie, Merrill of Maine, Morton, Osborn, Patterson of
New Hampshire, Pool, Rice, Robertson, Ross, Saw-
yer, Spencer, Thayer, Vickers, Wade, Warner, Wel-
ch, White, Willey, Williams—49.

Mr. Wilson then offered the amendment offered
by him in Committee of the Whole, proposing
an additional article as Article XV, and re-
ferred, as follows:

The second clause, first section, second article of the Constitution of the United States shall be
amended to read as follows: Each State shall
appoint, by a vote of the people thereof qualified
to vote for representatives in Congress, a number
of electors equal to the whole number of senators
and representatives to which the State may be
entitled in Congress; but no senator or rep-
resentative, or person holding an office of trust
or profit under the United States, shall be ap-
pointed an elector, and the Congress shall have
power to prescribe the manner in which such
electors shall be chosen by the people.
In Senate.

February 17—Mr. Stewart moved that the Senate recede from its amendments disagreed to by the House; which was agreed to—yea's 29, nay's 24, as follow:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Goff, Griffin, Drake, Edmands, Ferry, Fessenden, Frelinghuysen, Harris, Howard, Kellogg, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pool, Ramsey, Rice, Robertson, Sherman, Spink, Trumbull, Van Winkle, Williams, Yates—133.


Mr. Wilson moved to lay the resolution on the table; which was disagreed to—yea's 29, nay's 30, as follow:


On the question, shall the resolution (as originally passed by the House) pass, it was determined in the negative, (two-thirds not having voted in the affirmative)—yea's 31, nay's 27, as follow:


Mr. Howard moved to amend the amendment made in Committee of the Whole by striking out the words "the United States or by any State.

Which was disagreed to—yea's 15, nay's 23, as follow:


And the House proposition fell.
Mr. Doolittle moved to add to the amendment made in Committee of the Whole the words:

"Nor shall any citizen be so denied by reason of any alleged crime unless duly convicted therefor according to law."

Which was disagreed to—yeas 10, nays 29, as follow:

Year—Messrs. Backus, Davie, Dickson, Doolittle, Ferry, Fowler, Hendricks, McCrory, Morgan, Robertson, Sawyer, Tipton, Wilson, Yates—29.

Mr. Doolittle moved to add to the amendment made in Committee of the Whole the words:

"shall be chosen next after the passage of this act, and substituting the following:

The amendment made in Committee of the Whole was then concurred in, without a division.

Mr. Howard moved to amend the resolution striking out all after the word "that," where it first occurs, and substituting the following:

The following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States:

ARTICLE XV.

Citizens of the United States of African descent shall have the same right to vote and hold office in States and Territories as other electors.

Mr. Davis moved to amend so as to provide for the submission of this to legislatures "hereafter to be chosen," which was disagreed to.

Mr. Howard's amendment was then disagreed to—yeas 22, nays 35, as follow:


Mr. Hendricks moved to amend by adding to the resolution the following words:

The foregoing amendment shall be submitted to the legislatures of the several States the most numerous branches of which shall be chosen next after the passage of this resolution.

Which was disagreed to—yeas 12, nays 40, as follow:


Mr. Dixon moved to amend by submitting the article to conventions instead of legislatures; which was disagreed to—yeas 10, nays 30. (The affirmative vote was the same as above, except that Messrs. Fowler and McCrory did not vote. The negative also the same, except that Messrs. Sawyer and Wade did not vote, and Mr. Yates did.)

Mr. Davis moved a reconsideration of the vote disagreeing to this last amendment offered by Mr. Howard, which was disagreed to—yeas 10, nays 29, as follow:


The resolution was then engrossed and read a third time, and passed—yeas 39, nays 11, as follow:


In House.

February 20—On motion of Mr. Boutwell, the rules were suspended, (yeas 199, nays 35, not voting 48,) and the joint resolution of the Senate was taken up.

Messrs Logan, Shellabarger, and Bingham submitted amendments.

Mr. Boutwell moved to suspend the rules, and that the House proceed to vote on the pending amendments and the joint resolution without dilatory motions; which was agreed to—yeas 144, nays 37, not voting 41.

Mr. Logan's amendment—to strike from the first section the words "and hold office"—was disagreed to—yeas 70, nays 66, (not voting 57), as follow:


Mr. Bingham's amendment, to strike out the words "by the United States or," and insert the words "nativity, property, creed," so that it will read as follows:

The right of citizens of the United States to vote and hold office shall not be denied or abridged by any State on account of race, nativity, property, creed, or previous condition of servitude:

Was agreed to—yeas 92, nays 71, (not voting 59), as follow:


Mr. Sheelabarber then withdrew his amendment, and the joint resolution passed—yeas 140, nays 37, (not voting 46), as follow:


XLII.

MEMBERS OF THE CABINET OF PRESIDENT GRANT,
AND OF THE FORTY-FIRST CONGRESS.

PRESIDENT GRANT'S CABINET.*

Secretary of State—HAMILTON FISH, of New York, vice ELIJAH B. WASHBURN, of Illinois, resigned March 10, 1869.

*Mr. Washburn was nominated and confirmed as Secretary of State March 10, to take effect upon the qualification of his successor, which took place March 16. Mr. Alexander T. Stewart, of New York, was nominated and confirmed as Secretary of the Treasury March 5, and resigned March 16, being found disqualified by the act of Congress of September 2, 1869, providing that the Secretary of the Treasury, with


Delaware:—Benjamin T. Biggs.

Maryland:—Samuel Hambleton, Stevenson Archer, Thomas Swann, Patrick Hamlin, Frederick Stone.


South Carolina:—B. F. Whittemore, C. C. Bowen, Solomon L. Hogg. (vacancy.)

Louisiana:—(Vacancy), Lionel A. Sheldon, (vacancy.) (vacancy.)

Ohio:—Peter W. Strader, Job E. Stevenson.


Rhode Island:—Thomas A. Jenckes, Nathan F. Dison.


Delaware:—Benjamin T. Biggs.

Maryland:—Samuel Hambleton, Stevenson Archer, Thomas Swann, Patrick Hamlin, Frederick Stone.


South Carolina:—B. F. Whittemore, C. C. Bowen, Solomon L. Hogg. (vacancy.)

Louisiana:—(Vacancy), Lionel A. Sheldon, (vacancy.) (vacancy.)

Ohio:—Peter W. Strader, Job E. Stevenson.

Qualified March 15.

Resigned March 12.

Qualified March 12, having been voted entitled to the seat, yeas 68, nays 38.
ROBERT C. SCHAECK, WILLIAM LAWRENCE, WILLIAM MUNGEN, JOHN A. SMITH, JAMES J. WINANS, JOHN BEATTY, EDWARD F. DICKINSON, TRUMAN H. HOGG, JOHN T. WILSON, PHILADELPHIA VAN TRUMP, GEORGE W. MORGAN, MARTIN WEBER, ELIAS H. MOORE, JOHN A. BINGHAM, JACOB A. ANSTIBER, WILLIAM H. UPSON, JAMES A. GARFIELD.

KENTUCKY—LAWRENCE S. TRIMBLE, WILLIAM N. SWENNEY, J. S. GALLADAY, J. PROCTOR KNOTT, BOYD WINCHESTER, THOMAS L. JONES, JAMES B. BECK, GEORGE M. ADAMS, JOHN M. RICE.

TENNESSEE—RODERICK R. BUTLER, HORACE MARSHALL, WILLIAM B. STOKES, LOUIS TILLMAN, WILLIAM F. PRESSER, SAMUEL M. ARNELL, ISAAC R. HAWKINS, WILLIAM J. SMITH.

INDIANS—WILLIAM E. NIBLACK, MICHAEL C. KERR, WILLIAM S. HELMAN, GEORGE W. JULIAN, JOHN COBBUR, DANIEL W. VOORHEES, GODLOVE S. ORTH, JAMES N. TYNER, JOHN P. C. SHANKS, WILLIAM WILLIAMS, JASPER F. FACKRE.

ILLINOIS—NORMAN B. JUDD, JOHN F. FARNSWORTH, ELLIHU B. WASHBURN, JOHN B. HAY, JOHN M. CREBS, JOHN A. LOGAN.

MISSOURI—ERASTUS WELLS, GUSTAVUS A. FINKELBURG, JAMES R. MCCORMICK, SEMPRONIUS H. BOYD, SAMUEL S. BURDICK, ROBERT T. VAN HORN, JOEL F. ASPER, JOHN F. BENJAMIN, DAVID P. DYE.

ARKANSAS—LOGAN H. ROOTS, A. A. C. ROGERS, THOMAS BALE.

MICHIGAN—FERNANDO C. BEAMAN, WILLIAM L. BONGHOUT, A. W. BLAIR, THOMAS W. FERRY, OMER D. CONGER, RANDOLPH STRICKLAND.

FLORIDA—CHARLES M. HAMILTON.

LOUISIANA—GEORGE W. McCRARY, WILLIAM SMYTH, WILLIAM B. ALLISON, WILLIAM LOUTHBRIDGE, FRANK W. PALMER, CHARLES POMEROY.

WISCONSIN—HALBART E. Paine, BENJAMIN F. HOPKINS, AMASA COBB, CHARLES A. ELDREDGE, PHILIPETTE SAWYER, CALDWELTER CLAYTON.

CALIFORNIA—SALVAH B. AXEL, AARON A. SARGENT, JAMES A. JOHNSON.

MINNESOTA—MORTON S. WILKINSON, EUGENE M. WILSON.

OREGON—JOSPEH S. SMITH.

KANSAS—SIDNEY CLARKE.

WEST VIRGINIA—ISAAC H. DUVAL, JAMES C. MCGRaw, JOHN S. WITCHER.

NEVADA—THOMAS FITCH.

NEBRASKA—JOHN TAFF.

*Resigned March 6.

XLII.

POLITICAL VOTES IN FIRST SESSION OF FORTY-FIRST CONGRESS.

Additional Reconstruction Legislation.

An Act authorizing the submission of the constitutions of Virginia, Mississippi, and Texas to a vote of the people, and authorizing the election of State officers, provided by the said constitutions, and members of Congress.

Be it enacted, &c., That the President of the United States may, at such time as he may deem best for the public interest, may submit the constitution which was framed by the convention which met in Richmond, Virginia, on Tuesday, the 2d day of December, 1867, to the voters of said State, registered at the date of said submission, for ratification or rejection, and may also submit the entire constitution or separate provisions of the same, as provided in the 1st section of this act, to a separate vote; and at the same election the voters may vote for and elect the members of the Legislature and all the State officers provided for in said constitution, and members of Congress.

Sec. 2. That at the same election the voters of said State may vote for and elect members of the General Assembly of said State, and all the officers of said State provided for by the said constitution, and members of Congress; and the officer commanding the district of Virginia shall cause the lists of registered voters of said State to be revised, enlarged, and corrected prior to such election, according to law, and for that purpose may appoint such registrars as he may deem necessary. And said elections shall be held, and returns thereof made, in the manner provided by the acts of Congress commonly called the reconstruction acts.

Sec. 3. That the President of the United States may in like manner submit the constitution of Texas to the voters of said State at such time and in such manner as he may direct, either the entire constitution, or separate provisions of the same, as provided in the 1st section of this act, to a separate vote; and at the same election the voters may vote for and elect the members of the Legislature and all the State officers provided for in said constitution, and members of Congress.

Sec. 4. That the President of the United States may in like manner re-submit the constitution of Mississippi to the voters of said State at such time and in such manner as he may direct, either the entire constitution or separate provisions of the same, as provided in the 1st section of this act, to a separate vote; and at the same election the voters may vote for and elect the members of the legislature and all the State officers provided for in said constitution, and members of Congress.
SEC. 5. That if either of said constitutions shall be ratified at such election, the Legislature of the State so ratifying, elected as provided for in this act, shall assemble at the capital of said State on the fourth Tuesday after the official promulgation of such ratification by the military officer commanding in said State.

SEC. 6. That before the States of Virginia, Mississippi, and Texas shall be admitted to representation in Congress, their several legislatures, which may be hereafter lawfully organized, shall ratify the Eleventh article which has been proposed by Congress to the several States as an amendment to the Constitution of the United States.

SEC. 7. That the proceedings in any of the said States shall not be deemed final, or operate as a complete restoration thereof, until their action, respectively, shall be approved by Congress.

Approved April 10, 1869.

The final votes on this act were as follows:

IN SENATE, April 9.

Yeas—Messrs. Abbott, Borton, Brownlow, Buckingham, Carpenter, Cattell, Chandler, Coe, Cooking, Corbett, Crab, Franks, Frenzel, Perry, Fessenden, Harris, Harris, Howard, Howe, McDonald, Morton, Nye, Pomeroy, Pratt, Ramsey, Rice, Robertson, Ross, Sawyer, Schurz, Scott, Sherman, Spence, St John, Stebbins, Tunis, Upson, Trump, Warner, Willey, Williams, Wilson—44.


IN HOUSE, April 9.


Previous Votes.

In House.

1869, April 8—The House passed the following bill:

An Act authorizing the submission of the constitutions of Virginia, Mississippi, and Texas to a vote of the people, and authorizing the election of State officers, provided by said constitutions, and members of Congress.

Be it enacted, etc., That the President of the United States, at such time as he may deem best for the public interest, may submit the constitution which was framed by the convention which met in Richmond, Virginia, on Tuesday, the 1st day of December, 1857, to the registered voters of said State for ratification or rejection, and may also submit to a separate vote such provisions of said constitution as he may deem best, such vote to be taken either upon each of the said provisions alone, or in connection with the other portions of said constitution, as the President may direct.

SEC. 2. That at the same election the voters of said State shall vote for and elect members of the general assembly of said State, and all the officers of said State provided for by the said constitution, and members of Congress; and the officer commanding the district of Virginia shall cause the lists of registered voters of said State to be revised and corrected prior to such election, and for that purpose may appoint such registrars as he may deem necessary. And said election shall be held and returns thereof made in the manner provided by the election ordinance adopted by the convention which framed said constitution.

SEC. 3. That the President of the United States may in like manner submit the constitution of Texas to the voters of said State at such time and in such manner as he may direct, either the entire constitution, or separate provisions of the same, as provided in the 1st section of this act, to a separate vote; and at the same election the voters may vote for and elect the members of the legislature and all the State officers provided for in said constitution, and members of Congress; Provided, also, That no election shall be held in said State of Texas for any purpose until the President so directs.

SEC. 4. That the President of the United States may in like manner resubmit the constitution of Mississippi to the voters of said State, at such time and in such manner as he may direct, either the entire constitution or separate provisions of the same, as provided in the 1st section of this act, to a separate vote; and at the same election the voters may vote for and elect the members of the legislature and all the State officers provided for in said constitution, and members of Congress.

SEC. 5. That if either of said constitutions shall be ratified at such election, the legislature of the State so ratifying, elected as provided for in this act, shall assemble at the capital of said State, respectively, on the fourth Tuesday after the official promulgation of such ratification by the military officer commanding in said State.

SEC. 6. That in either of said States the commanding general, subject to the approval of the President of the United States, may suspend, until the action of the legislature elected under the constitution respectively, all laws that he may deem unjust and oppressive to the people.

Yea 125, nay 25, (not voting 47.) as follows:


The officers elected shall enter upon the duties of the offices for which they are chosen as soon as elected and qualified in accordance with the provisions of said constitution, and shall hold their respective offices for the term of years prescribed by the constitution, counting from the day of January next, and until their successors are elected and qualified.

The third section provides that an election for members of the United States Congress shall be held in the congressional districts as set forth by said convention, one member of Congress being elected in the State at large, at the same time and places as the election for State officers; said election to be conducted by the same persons and under the same regulations before mentioned in this act; the returns to be made in the same manner provided for State officers.

By the fourth section it is provided that no person shall act either as a member of any board of registration to revise and correct the returns of voters as provided in section seven of the act of July 19, 1867, amendatory of the act of March 2, 1867, entitled “An act for the more efficient government of the rebel States,” &c., or as a judge, commissioner, or other officer, at any election to be held under the provisions of this act, who is a candidate for any office at the elections to be held as herein provided for.

The fifth section provides that the general assembly elected under and by virtue of this act shall assemble at the capitol in the city of Richmond, on first Tuesday in September, 1869.

The Senate committee's amendments were: To submit, at the same election, to a separate vote of said voters, the question of ratification of the constitution shall be “for the constitution,” “against the constitution,” or “for disqualification” or “against disqualification.” Also, to substitute the following for the fifth section:

In case a majority of all the votes cast on the ratification of the constitution shall be “for the constitution,” the general assembly elected under and by virtue of this act shall assemble at the capitol, in the city of Richmond, on the first Thursday of July, 1869; but if a majority of the votes cast upon the question of ratification be against said constitution, said general assembly shall not convene nor shall any person elected to office under the provisions of this act enter upon the discharge of the duties thereof in pursuance of said election. The provision of the constitution voted upon separately shall constitute a part of the constitution if a majority of the votes cast upon it be “for disqualification”; but if a majority of the votes cast on that question be “against disqualification,” it shall not constitute part of the constitution.

The Mississippi Bill.

In House.

1869, March—Mr. Benjamin F. Butler, from the Committee on Reconstruction, reported the following bill:

A Bill to provide for the organization of a provisional government for the State of Mississippi.
Be it enacted, &c., That for the better security of persons and property in Mississippi, the constitutional convention of said State, heretofore elected under and in pursuance of an act of Congress, passed March 2, 1867, entitled "An act for the more efficient government of the rebel States," and the several acts of Congress supplementary thereto and amendatory thereof, and as organized at the time of its adjournment, is hereby authorized to assemble forthwith upon the call of its president thereof; and in case of his failure for thirty days to summon said convention, then the commanding general of the fourth military district is hereby authorized and required to summon by proclamation said convention to assemble at the capital of said State; and said convention shall have, and it is hereby authorized to exercise, the following powers in addition to the powers now authorized by law to wit: to appoint a provisional governor, to authorize the provisional government of said State to remove and appoint registrars and judges of elections under said acts of Congress, who shall not be voted for at elections within their own precincts; to submit to the people of said State the constitution heretofore framed by said convention, either with or without amendments, to provide by ordinance that the votes for and against said constitution and for and against the clauses thereof submitted by this act to a separate vote, together with the votes cast for and against all State and local officers voted for under said constitution, shall be forwarded to the president thereof, shall give aid to the officers of the provisional government of said State in preserving the peace and enforcing the laws, and especially in suppressing unlawful obstructions and forcible resistance to the execution of the laws.

SEC. 3. That the military commander in said State, upon the requisition of the provisional governor thereof, shall give aid to the officers of the provisional government of said State in preserving the peace and enforcing the laws, and especially in suppressing unlawful obstructions and forcible resistance to the execution of the laws.

SEC. 4. That the said provisional governor may remove office in said State any person holding office therein, and may appoint a successor in his stead, and may also fill all vacancies that may occur by death, resignation, or otherwise, subject, however, in all removals and appointments, to the orders and directions of the President of the United States; and the President of the United States may at any time remove the said provisional governor and appoint a successor in his stead.

SEC. 5. That if at any election authorized in the State of Mississippi any person shall knowingly procure or fraudulently assume to vote in the name of any other person, whether such other person shall then be living or dead, or if the name of the said other person be the name of a fictitious person, or vote more than once at the same election for the same office, or vote at a place where he may not be lawfully entitled to vote, or without having a lawful right to vote, or falsely register a voter, or do any unlawful act to secure a right or an opportunity for himself or other person to vote, or shall, by force, fraud, threat, menace, intimidation, bribery, reward, offer, or promise of any valuable thing whatever, or by any contract for employment, or labor, or for any right whatever, otherwise attempt to prevent any voter who may at any time be qualified from freely exercising the right of suffrage, or shall by either of such means, or otherwise, induce any officer to refuse or neglect to exercise such right, or compel or induce, by either of such means, or otherwise, any officer of an election to receive a vote from a person not legally qualified or entitled to vote, or interfere to hinder or impede in any manner any officer in any election in the discharge of his duties, or by either of such means, or otherwise, induce any officer in any election, or officer whose duty it is to ascertain, announce, or declare the result of any vote, or give or make any certificate, document, or evidence in relation thereto, to violate or refuse to comply with his duty or any law regulating the same, or if any such officer shall neglect or refuse to perform any duty required of him by law, to violate any duty imposed by law, or do any act unauthorized by law relating to or affecting any such vote, election,
or the result thereof, or if any person shall aid, counsel, procure, or advise any such voter, person, or officer to do any act herein made a crime, or to omit to do any duty the omission of which is hereby made a crime, or attempt so to do, or if any person shall by force, threat, menace, intimidation, or otherwise prevent any citizen or citizens from assembling in public meeting to discuss or hear discussed any subject whatever, or if any person shall by any means break up, disperse, or molest any assemblage, or any citizen in or of such assemblage when met or meeting to discuss or hear discussion, as aforesaid, shall by any means prevent any citizen from attending any such assemblage, every person so offending shall be deemed guilty of a crime, and shall for such crime be liable to indictment in any court of the United States of competent jurisdiction, and on conviction thereof shall be adjudged to pay a fine not exceeding five hundred dollars or less than one hundred dollars, and suffer imprisonment for a term not exceeding three years nor less than six months, in the discretion of the court, and pay the costs of prosecution.

Sec. 6. That no officer of Mississippi shall buy or sell treasury warrants, or claims of any sort upon the treasury of the State, or of any county or district thereof. All taxes and moneys collected by any officer shall be paid into the ap­v1?late tills section shall be ~ee_med guilt.f of .a

May have been received. Any person who shall receive warrants in payment of taxes shall file with the treasurer a schedule, made under oath, of such warrants, with the name and residence of the person from whom any such warrant may have been received. Any person who shall violate this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as is prescribed in the fifth section of this act.

Sec. 7. That the courts of the United States shall have jurisdiction of cases arising under this act.

Sec. 8. That the poll-tax levied in any one year upon any citizen of Mississippi shall not exceed §1.50, and all laws in said State for the collection of taxes and debts shall be uniform, and every citizen shall be entitled to all the exemptions and immunities in these respects of the most favored citizen or class of citizens.

Sec. 9. That all bonds which shall hereafter be forfeited and sold for non-payment of any tax, impost, or assessment whatever, in the State of Mississippi, or under proceedings in bankruptcy, or by virtue of the judgment or decree of any court in the said State of Missis­ippi, shall be disposed of only by sale in separate subdivisions not exceeding forty acres each: Provided, however, That such portion of said lands shall first be offered for sale as can be sold with the least injury to the remainder.

April 1—Its further consideration was postponed till the first Monday in December next—yea 103, nays 62, (not voting 51) as follow:


The Public Credit Act.

This bill became a law March 18, 1869, being the first act approved by President Grant:

Be it enacted, &c., That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared, that the faith of the United States is solemnly pledged to the payment in coin or its equivalent of all the obligations of the United States not bearing interest, known as United States notes, and of all the interest-bearing obligations of the United States except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver. But none of said interest-bearing obligations not already due shall be redeemed or paid before maturity unless at such time United States notes shall be convertible into coin at the option of the holder, or unless at such time bonds of the United States bearing a lower rate of interest than the bonds to be redeemed can be sold at par in coin. And the United States also solemnly pledges its faith to make provision at the earliest practicable period for the redemption of the United States notes in coin.

March 12—it passed the House—yeas 97, nays 47, (not voting 49) as follow:


The Public Credit Act.
March 11—Mr. Howard moved to insert the word “written” before “contract” in the 24 section where it first occurs; which was agreed to.

Mr. Sumner moved to strike out the 24 section; which was agreed to—yeas 28, nays 15, as follow:


Mr. Thurman moved to add to the 1st section the following proviso:

Provided, That nothing herein contained shall apply to the obligations commonly called fifteen years bonds.

Which was not agreed to—yeas 12, nays 31, as follow:


Mr. Morton moved to strike from section 1st the words, “authorizing the issue of any such obligation,” which was not agreed to—yeas 14, nays 32, as follow:

Yea—Messrs. Bayard, Brownlow, Cassady, Morton, Osborn, Pratt, Ross, Spence, Stockton, Thurman, Vedder, 12.


Mr. Morton moved to strike from section 1st the words, “authorizing the issue of any such obligation,” which was not agreed to—yeas 14, nays 32, as follow:

Yea—Messrs. Bayard, Brownlow, Cassady, Morton, Osborn, Pratt, Ross, Spence, Stockton, Thurman, Vedder, 12.


March 15—This bill was then laid aside, and the House bill taken up and passed by the vote given above.

Amendment to the Tenure-of-Office Act.

This bill passed both Houses, and became a law:

As Act to amend “An act regulating the tenure of certain civil offices.”

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first and second sections of an act entitled “An act regulating the tenure of certain civil offices,” passed March 2, 1867, be, and the same are hereby, repealed, and in lieu of said repealed sections the following are hereby enacted:

That every person holding any civil office to which he has been or hereafter may be appointed, by and with the advice and consent of the Senate, and who shall have become duly qualified to act therein, shall be entitled to hold such office until
during the term for which he shall have been appointed, unless sooner removed by and with the advice and consent of the Senate, or by the appointment, with the like advice and consent, of a successor in his place, except as herein otherwise provided.

SEC. 2. And be it further enacted, That during any recess of the Senate the President is hereby empowered, in his discretion, to suspend any civil officer appointed by and with the advice and consent of the Senate, except judges of the United States courts, until the end of the next session of the Senate, and to designate some person to fill the duties of such suspended officer in the meantime; and such person so designated shall take the oath required by law to be taken and given by the suspended officer, and shall, during the time he performs his duties, be entitled to the salary and emoluments of such office, no part of which shall belong to the officer suspended; and it shall be the duty of the President within thirty days after the commencement of each session of the Senate, except for any office which in his discretion he may not be in a position to fill, to nominate persons to fill all vacancies in office which may exist at the meeting of the Senate, whether temporarily filled or not, and also in the place of all officers suspended; and if the Senate, by their concurrent vote, shall refuse to advise and consent to an appointment in the place of any suspended officer, then, and not otherwise, the President shall nominate another person as soon as practicable to said session of the Senate for said office.

SEC. 3. And be it further enacted, That section three of the act to which this is an amendment be amended by inserting after the word "resignation," in line three of said section, the following: "or expiration of term of office.

Approved, April 5, 1869.

In Senate, March 31.


Preliminary Votes.

The following is the action of each House in detail:

In House.

1869, March 9—The bill to repeal the tenure-of-office act was introduced by Mr. Benjamin F. Butler, and read a first and second time and passed—yes 128, nays 10, (not voting 30), as follows:


In Senate.

1868, March 8—It was referred to the Committee on the Judiciary—yes 34, nays 25, as follows:


Nay—Messrs. Bayard, Bayard, Bowen, Buckingham,arpen,er, Cattell, Chandler, Conkling, Cushing, Curtis, Druke, Edwards, Fenton, Fowey, Gilmore, Hamlin, Hart, Harris, Howard, Kellogg, Morrill, Nye, Osgood, Patterson, Pomeroy, Pool, Pratt, Ramsey, Rice, Sawyer, Scholfield, Scott, Senator, Tipton, Trumpbull, Willey, Williams, Wilson, Yates—27.


March 24—Mr. Trumpbull reported the bill from the Committee on the Judiciary, amended so as to strike out all after the enacting clause and insert as follows:

That the 1st and 2d sections of an act entitled "An act regulating the tenure of certain civil officers," passed March 2, 1867, be, and the same are hereby, repealed, and in lieu of said repealed sections the following are hereby enacted: That every person holding any civil office to which he has been appointed, by and with the advice and consent of the Senate, and who shall have become qualified to act therein, shall be entitled to hold such office, during the term for which he shall have been appointed, unless sooner removed by and with the advice and consent of the Senate, or by the appointment, with the like advice and consent,
of a successor in his place, except as herein otherwise provided.

SEC. 2 And be it further enacted, That during any recess of the Senate the President is hereby empowered, in his discretion, to suspend any civil officer appointed by and with the advice and consent of the Senate, except judges of the United States courts, until the end of the next session of the Senate, and to designate some suitable person to be removed in his discretion by the designation of another to perform the duties of such suspended officer in the meantime; and such person so designated shall take oaths and give bonds required by law to be taken and given by the suspended officer, and shall during the time he performs his duties be entitled to the salary and emoluments of such officer, so as to part of the duties which in his opinion ought not to be filled, to nominate persons to fill all vacancies in office a division, and the House refused to concur in the amendment of the Senate—yeas 70, nays 23.

March 23—A motion to refer the Committee on the Judiciary was agreed to—yeas 94, nays 79, not voting 23.

March 25—This motion was reconsidered, without a division, and the House refused to concur in the amendment of the Senate—yeas 70, nays 49, (not voting 27) as follows:


PRESIDENT GRANT'S INAUGURAL ADDRESS,
AND MESSAGE ON RECONSTRUCTION, AND THE OFFICIAL PROCLAMATIONS OF
THE YEAR.

President Grant's Inaugural Address, March
4th, 1869.

Citizens of the United States,
Your suffrages having elected me to the office
of President of the United States, I have, in
conformity to the Constitution of our country,
taken the oath of office prescribed therein. I
have taken this oath without mental reservation,
and with the determination to do to the best of
my ability all that it requires of me. The re­
sponsibilities of the position I feel, but accept
them without fear. The office has come to me
unsought; I commence its duties untrammelled.
I bring to it a conscious desire and determina­
tion to fill it to the best of my ability to the
satisfaction of the people.

On all leading questions agitating the public
mind I will always express my views to Con­
gress, and urge them according to my judgment;
and, when I think it advisable, will exercise the
constitutional privilege of interposing a veto to
defeat measures which I oppose. But all laws
will be faithfully executed whether they meet
my approval or not.

I shall on all subjects have a policy to re­
commend, but none to enforce against the will
of the people. Laws are to govern all alike,
those opposed as well as those who favor them.

The country having just emerged from a great
rebellion, many questions will come before it for
settlement in the next four years which prece­
ding Administrations have never had to deal
with. In meeting them it is desirable that they
should be approached calmly, without prejudice,
hatred or sectional pride, remembering that the
greatest good to the greatest number is the ob­
ject to be attained.

This requires security of person, property,
and free religious and political opinion in every
part of our common country, without regard to
local prejudices. All laws to secure these ends
will receive my best efforts for their enforcement.

A great debt has been contracted in securing
us to our posterity the Union. The pay­
ment of this, principal and interest, as well as the
interest of the country, must be provided for. To protect the national honor
every dollar of government indebtedness should
be paid in gold, unless otherwise expressly stip­
ulated in the contract. Let it be understood
that no repudiator of one farthing of our public
debt will be trusted in public place, and it will
go far towards strengthening a credit which
ought to be the best in the world, and will ulti­
ately enable us to replace the debt with bonds
bearing less interest than we now pay. To this
should be added a faithful collection of the rev­
ue, a strict accountability to the treasury for
every dollar collected, and the greatest practica­
ble retrenchment in expenditure in every
department of government.

When we compare the paying capacity of the
country now—with the totality of its resources
from the effects of war, but soon to emerge, I
trust, into greater prosperity than ever before—
with its paying capacity twenty-five years ago,
and calculate what it probably will be twenty­
five years hence, who can doubt the feasibility
of paying every dollar then with more ease than
we now pay for useless luxuries? Why, it looks
as though Providence had bestowed upon us a
strong box in the precious metals locked up in
the sterile mountains of the far west, and which
we are now forging the key to unlock, to meet
the very contingency that is now upon us.

Ultimately it may be necessary to insure the
facilities to reach these riches, and it may be ne­
cessary also that the general government should
give its aid to secure this access. But that should
only be when a dollar of obligation to pay se­
cures precisely the same sort of dollar to use now,
and not before. Whilst the question of specie
payments is in abeyance, the prudent business
man is careful about contracting debts payable
in the distant future. The nation should follow
the same rule. A prostrate commerce is to be
rebuilts and all industries encouraged.

The young men of the country, those who
from their age must be its rulers twenty-five
years hence, have a peculiar interest in main­
taining the national honor. A moment's refl.ection
as to what will be our commanding influence
among the nations of the earth in their day, if
they are only true to themselves, should inspire
them with national pride. All divisions, geo­
graphical, political, and religious, can join in
this common sentiment. How the public debt
is to be paid, or specie payments resumed, is not
so important as that a plan should be adopted
and acquiesced in.

A united determination to do is worth more
than divided councils upon the method of doing.
Legislation upon this subject may not be neces­
sary now, nor even advisable, but it will be when
the civil law is more fully restored in all parts
of the country, and trade resumes its wonted
channels.
It will be my endeavor to execute all laws in good faith, to collect all revenues assessed, and to have them properly accounted for and economically disbursed. I will, to the best of my ability, appoint to office those only who will carry out this design.

In regard to foreign policy, I would deal with nations as equitable law requires individuals to deal with each other, and I would protect the law-abiding citizen, whether of native or foreign birth, wherever his rights are jeopardized or the flag of our country floats. I would respect the rights of all nations, demanding equal respect for our own. If others depart from this rule in their dealings with us, we may be compelled to follow their precedent.

The proper treatment of the original occupants of this land, the Indians, is one deserving of careful study. I will favor any course toward them which tends to their civilization and ultimate citizenship.

The question of suffrage is one which is likely to agitate the public so long as a portion of the citizens of the nation are excluded from its privileges in a necessary measure. It seems to me very desirable that this question should be settled now, and it may be by the ratification of the Fifteenth Amendment.

In conclusion, I ask patient forbearance one toward another throughout the land, and a determined effort on the part of every citizen to do his share toward cementing a happy Union, and I ask the prayers of the nation to Almighty God in behalf of this consummation.

President Grant's Message respecting the Reconstruction of Virginia and Mississippi, April 7, 1869.

To the Senate and House of Representatives:

While I am aware that the time in which Congress proposes now to remain in session is very brief, and that it is its desire, as far as is consistent with the public interest, to avoid entering upon the general business of legislation, there is one subject which concerns so deeply the welfare of the country that I deem it my duty to bring it before you.

I have no doubt that you will concur with me in the opinion that it is desirable to restore the States which were engaged in the rebellion to their proper relations to the Government and the country at as early a period as the people of those States shall be found willing to become and maintain such constitutions and laws as will effectually secure the civil and political rights of all persons within their borders. The authority of the United States, which has been vindicated and established by its military power, must undoubtedly be asserted for the absolute protection of all its citizens in the full enjoyment of the freedom and security which is the object of a republican government. But whenever the people of a rebellious State are ready to enter in good faith upon the accomplishment of this object, in entire conformity with the constitutional authority of Congress, it is certainly desirable that all causes of irritation should be removed as promptly as possible, that a more perfect union may be established, and the country be restored to peace and prosperity.

The convention of the people of Virginia which met in Richmond on Tuesday, December 3, 1867, framed a constitution for that State, which was adopted by the convention on the 17th of April, 1868, and I desire respectfully to call the attention of Congress to the propriety of providing by law for the holding of an election in that State at some time during the months of May and June next, under the direction of the military commander of that district, at which the question of the adoption of that constitution shall be submitted to the citizens of the State; and if this should seem desirable, I would recommend that a separate vote be taken upon such parts of the same as may be thought expedient, and that at the same time and under the same authority there shall be an election for the officers provided under such constitution, and that the constitution, and such parts thereof as shall have been adopted by the people, be submitted to Congress on the first Monday of December next for its consideration, so that if the same is then approved the necessary steps will have been taken for the restoration of the State of Virginia to its proper relations to the Union.

I am led to make this recommendation from the confident hope and belief that the people of that State are now ready to co-operate with the national government in bringing it again into such relations to the Union as it ought as soon as possible to establish and maintain and to give to all its people those equal rights under the law which were asserted in the Declaration of Independence in the words of one of the most illustrious of its sons.

I desire also to ask the consideration of Congress to the question whether there is not just ground for believing that the constitution framed by a convention of the people of Mississippi for that State, and once rejected, might not be again submitted to the people of that State in like manner, and with the probability of the same result.

U. S. GRANT.

WASHINGTON, D. C., April 7, 1869.

Final Certificate of Mr. Secretary Seward respecting the Ratification of the Fourteenth Amendment to the Constitution, July 29, 1868.

BY WILLIAM H. SEWARD, SECRETARY OF STATE OF THE UNITED STATES.

To all to whom these presents may come, greeting:

Whereas by an act of Congress passed on the 20th of April, 1818, entitled "An act to provide for the publication of the laws of the United States and for other purposes," it is declared, that whenever official notice shall have been received at the Department of State that any amendment which heretofore has been and hereafter may be proposed to the Constitution of the United States has been adopted according to the provisions of the Constitution, it shall be the duty of the said Secretary of State forthwith to cause the said amendment to be published in the newspapers authorized to promulgate the laws,

*The vote was taken June 22, 1868, and, as transmitted by Gen. Gillem, was as follows: For the constitution, 56,231; against it, 53,999. Number of registered voters, 115,211.
with his* certificate, specifying the States by which the same may have been adopted, and that the same has become valid to all intents and purposes as a part of the Constitution of the United States;

And whereas the Congress of the United States, on or about the 16th day of June, 1866, submitted to the legislatures of the several States a proposed amendment to the Constitution in the following words, to wit:

**Joint Resolution proposing an amendment to the Constitution of the United States.**

Be it resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, (two thirds of both Houses concurring) That the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said legislatures, shall be valid as part of the Constitution, namely:

**ARTICLE XIV.**

Sec. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the States wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Sec. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens bears to the whole number of male citizens twenty-one years of age in such State.

Sec. 3. No person shall be a senator or representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or of any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two thirds of each House remove such disability.

Sec. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

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

**SCHUYLER COLFAX,**

**Speaker of the House of Representatives.**

**LA FAYETTE S. FORNEY,**

**President of the Senate pro tempore.**

Attest:

**EDWD. McPHERSON,**

**Clerk of the House of Representatives.**

**J. W. FORNEY,**

**Secretary of the Senate.**

And whereas the Senate and House of Representatives of the Congress of the United States, on the 21st day of July, 1868, adopted and transmitted to the Department of State a concurrent resolution, which concurrent resolution is in the words and figures following, to wit:

**In Senate of the United States,**

**July 21, 1868.**

Whereas the Legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, West Virginia, Kansas, Missouri, Indiana, Ohio, Illinois, Minnesota, New York, Wisconsin, Pennsylvania, Rhode Island, Michigan, Nevada, New Hampshire, Massachusetts, Nebraska, Maine, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three-fourths and more of the several States of the Union, have ratified the fourteenth article of amendment to the Constitution of the United States, duly proposed by two-thirds of each House of the Thirty-Ninth Congress; therefore,

**Resolved by the Senate, (the House of Representatives concurring) That said fourteenth article is hereby declared to be a part of the Constitution of the United States, and it shall be duly promulgated as such by the Secretary of State.**

**Attest:**

**GEORGE C. GOURDAN,**

**Secretary.**

And whereas official notice has been received at the Department of State that the legislatures of the several States next hereinafter named have, at the times respectively herein mentioned, taken the proceedings hereinafter recited upon or in relation to the ratification of the said proposed amendment, called article fourteenth, namely:

The Legislature of Connecticut ratified the amendment June 30, 1866; the Legislature of New Hampshire ratified it July 7, 1868; the Legislature of Tennessee ratified it July 10, 1866; the Legislature of New Jersey ratified it September 11, 1866, and the Legislature of the same State passed a resolution in April, 1868, to withdraw the consent to it; the Legislature of Oregon ratified it September 19, 1866; the Legislature of Texas rejected it November 1, 1866; the Legislature of Vermont ratified it on or previous to November 9, 1866; the Legislature of Georgia rejected it November 12, 1866, and the Legisla-
hereby direct the said proposed amendment to ratifyit January 9, 1867; the Legislature of Kentucky rejected it January 10, 1867; the Legislature of New York ratified it January 10, 1867; the Legislature of Ohio ratified it January 11, 1867, and the Legislature of the same State passed a resolution in January, 1868, to withdraw its consent to the aforesaid concurrent resolution of the 21st of July, 1867; the Legislature of Illinois ratified it January 15, 1867; the Legislature of West Virginia ratified it January 16, 1867; the Legislature of Kansas ratified it January 18, 1867; the Legislature of Maine ratified it January 19, 1867; the Legislature of Nevada ratified it January 22, 1867; the Legislature of Missouri ratified it on or previous to January 20, 1867; the Legislature of Indiana ratified it January 20, 1867; the Legislature of Minnesota ratified it February 1, 1867; the Legislature of Rhode Island ratified it February 7, 1867; the Legislature of Delaware rejected it February 7, 1867; the Legislature of Wisconsin ratified it February 13, 1867; the Legislature of Pennsylvania ratified it February 13, 1867; the Legislature of Michigan ratified it February 15, 1867; the Legislature of Massachusetts ratified it March 10, 1867; the Legislature of Maryland rejected it March 23, 1867; the Legislature of Nebraska ratified it June 15, 1867; the Legislature of Iowa ratified it April 3, 1867; the Legislature of Arkansas ratified it April 6, 1867; the Legislature of Florida ratified it June 9, 1868; the Legislature of Louisiana ratified it July 9, 1868, and the Legislature of Alabama ratified it July 13, 1868.

Now, therefore, be it known that I, William H. Seward, Secretary of State of the United States, in execution of the aforesaid act, and of the aforesaid concurrent resolution of the 21st of July, 1868, and in conformance thereto, do hereby direct the said proposed amendment to the Constitution of the United States to be published in the newspapers authorized to publish the laws of the United States, and I do hereby certify that the said proposed amendment has been adopted in the manner hereinbefore mentioned by the States specified in the said concurrent resolution, namely, the States of Connecticut, New Hampshire, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, to be, Virginia, Indiana, Maine, Nevada, Missouri, Indiana, Minnesota, Rhode Island, Wisconsin, Pennsylvania, Michigan, Massachusetts, Nebraska, Iowa, Arkansas, Florida, North Carolina, South Carolina, Alabama, and also by the Legislature of the State of Georgia; the States thus specified being more than three-fourths of the States of the United States.

And I do further certify, that the said amendment has become valid to all intents and purposes as a part of the Constitution of the United States.

Done at the city of Washington, this 28th day of July, in the year of our Lord 1868, and of the independence of the United States of America the ninety-third.

William H. Seward,
Secretary of State.

President Johnson's Proclamation of General Amnesty, December 25, 1868.

Whereas the President of the United States has heretofore set forth several proclamations, offering amnesty and pardon to persons who had been or were concerned in the late rebellion against the lawful authority of the Government of the United States, which proclamations were severally issued on the 8th day of December, 1863, on the 22nd day of March, 1864, on the 10th day of May, 1865, on the 7th day of September, 1865, and on the 4th day of July, in the present year;

And whereas the authority of the federal government having been re-established in all the States and Territories within the jurisdiction of the United States, it is believed that such prudential reservations and exceptions as of the dates of said several proclamations were deemed necessary and proper may now be wisely and justly relinquished, and that a universal amnesty and pardon for participation in said rebellion extended to all who have borne any part therein will tend to secure permanent peace, order, and prosperity throughout the land, and to renew and fully restore confidence and fraternal feeling among the whole people, and their respect and attachment to the national government, designed by its patriotic founders for general good;

Now, therefore, be it known that I, Andrew Johnson, President of the United States, by virtue of the power and authority vested in me by the Constitution, and in the name of the sovereign people of the United States, do hereby proclaim and declare unconditionally, and without reservation, to all and to every person who directly or indirectly participated in the late insurrection or rebellion, a full pardon and amnesty for the offence of treason against the United States, or of adhering to their enemies during the late civil war, with restoration of all rights, privileges, and immunities under the Constitution and the laws which have been made in pursuance thereof.

In testimony whereof I have signed these presents with my hand, and have caused the seal of the United States to be hereunto affixed.

Done at the city of Washington, this 25th day of December, in the year of our Lord 1868, and of the independence of the United States of America the ninety-third.

Andrew Johnson.

By the President:
F. W. Seward,
Acting Secretary of State.

[For previous proclamations of amnesty, see Manual of 1868, p. 121, or Hand-Book of Politics, p. 379.]
Message Respecting this Proclamation, January 19, 1869.

To the Senate of the United States:

The resolution adopted on the 5th instant, requesting the President "to transmit to the Senate a copy of any proclamation of amnesty made by the President under the authority of law by which it was made, and followed by President Adams in 1800, Madison in 1815, and Lincoln in 1863, and by the present President Grant's Proclamation for the Election in Virginia, May 14, 1869."

In pursuance of the provisions of the act of Congress approved April 10, 1869, I hereby designate the 6th day of July, 1869, as the time for submitting the constitution passed by the Convention which met in Richmond, Virginia, on Tuesday, the 3d day of December, 1867, to the voters of said State registered at the date of such submission, viz., July 6, 1869, for ratification or rejection.

And I submit to a separate vote the fourth clause of section 1, article III, of said constitution, which is in the following words:

Every person who has been a senator or representative in Congress, or elector of President or Vice-President, or who held any office, civil or military, under the United States, or under any State, who, having previously taken an oath to support the Constitution of the United States, or to amend or revise this constitution in any manner, and the mayor and council in any city or town shall, before they enter on the duties of their respective offices, take and subscribe to the following oath or affirmation, provided the disabilities therein contained may be individually removed by a three-fifths vote of both houses, remove the disabilities incurred by this clause from any person included therein by a separate vote in each case.

And I also submit to a separate vote the 7th section of article 111 of the said constitution, which is in the words following:

In addition to the foregoing oath of office, the governor, lieutenant governor, members of the General Assembly, Secretary of State, auditor of public accounts, State treasurer, attorney general, sheriffs, sergeant of a city or town, commissioner of the revenue, county surveyor, conservators, overseers of the poor, commissioner of the board of public works, judges of the supreme court, judges of the circuit court, judges of the court of chancery, justices of the county court, mayor, recorder, aldermen, councilmen of a city or town, coroners, escheaters, inspectors of tobacco, flour, &c., and clerks of the supreme, district, circuit, and county courts, and of the court of common pleas and quarter sessions, are to take the oath of office and be sworn in accordance with the judicial expositions of the Constitution of the United States, except in cases of impeachment. The federal Constitution is understood to be, and is regarded by the Executive, as the supreme law of the land. The second section of article 11 of that instrument, provides that the President "shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment." The proclamation of the 25th ultimo is in strict accordance with the judicial expositions of the Constitution and in the name of the sovereign people of the United States, and proclaims and declares "unconditionally, and without reserve or purpose of evasion, and that I will well and faithfully discharge the duties of the office of..."

And I also submit to a separate vote the 7th section of article 111 of the said constitution, which is in the words following:

In addition to the foregoing oath of office, the governor, lieutenant governor, members of the General Assembly, Secretary of State, auditor of public accounts, State treasurer, attorney general, sheriffs, sergeant of a city or town, commissioner of the revenue, county surveyor, conservators, overseers of the poor, commissioner of the board of public works, judges of the supreme court, judges of the circuit court, judges of the court of chancery, justices of the county court, mayor, recorder, aldermen, councilmen of a city or town, coroners, escheaters, inspectors of tobacco, flour, &c., and clerks of the supreme, district, circuit, and county courts, and of the court of common pleas and quarter sessions, are to take the oath of office and be sworn in accordance with the judicial expositions of the Constitution of the United States, except in cases of impeachment. The federal Constitution is understood to be, and is regarded by the Executive, as the supreme law of the land. The second section of article 11 of that instrument, provides that the President "shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment." The proclamation of the 25th ultimo is in strict accordance with the judicial expositions of the Constitution and in the name of the sovereign people of the United States, and proclaims and declares "unconditionally, and without reserve or purpose of evasion, and that I will well and faithfully discharge the duties of the office of..."

And I also submit to a separate vote the 7th section of article 111 of the said constitution, which is in the words following:

In addition to the foregoing oath of office, the governor, lieutenant governor, members of the General Assembly, Secretary of State, auditor of public accounts, State treasurer, attorney general, sheriffs, sergeant of a city or town, commissioner of the revenue, county surveyor, conservators, overseers of the poor, commissioner of the board of public works, judges of the supreme court, judges of the circuit court, judges of the court of chancery, justices of the county court, mayor, recorder, aldermen, councilmen of a city or town, coroners, escheaters, inspectors of tobacco, flour, &c., and clerks of the supreme, district, circuit, and county courts, and of the court of common pleas and quarter sessions, are to take the oath of office and be sworn in accordance with the judicial expositions of the Constitution of the United States, except in cases of impeachment. The federal Constitution is understood to be, and is regarded by the Executive, as the supreme law of the land. The second section of article 11 of that instrument, provides that the President "shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment." The proclamation of the 25th ultimo is in strict accordance with the judicial expositions of the Constitution and in the name of the sovereign people of the United States, and proclaims and declares "unconditionally, and without reserve or purpose of evasion, and that I will well and faithfully discharge the duties of the office of..."
shall express his judgment by voting.

against the Constitution.

As framed by the convention of December 3, 1867, shall express his judgment by voting.

each voter favoring the rejection of the constitution (excluding the provisions above quoted).

Each voter will be allowed to cast a separate ballot for or against either or both of the provisions above quoted.

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

Done at the city of Washington, this 14th day of May, in the year of our Lord 1869.

[SEAL.] and of the independence of the United States of America the ninety-third.

U. S. GRANT.

By the President:
HAMILTON FISHER,
Secretary of State.

Respecting Wages of Labor, May 19, 1869.

Whereas the act of Congress, approved June 25, 1865, constituted on and after that date eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States, and repealed all acts and parts of Acts inconsistent therewith:

Now, therefore, I, U. S. Grant, President of the United States, do hereby declare and proclaim, that on and after this date, so long as merchandise imported from countries of its origin into French ports in vessels belonging to citizens of the United States is admitted into French ports on the terms aforesaid, the discriminating duties heretofore levied upon merchandise imported from the countries of its origin into ports of the United States in French vessels shall be, and are hereby, discontinued and abolished.

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

Done at the city of Washington, this 12th day of June, in the year of our Lord 1869.

[SEAL.] and of the independence of the United States of America the ninety-third.

U. S. GRANT.

By the President:
HAMILTON FISHER,
Secretary of State.

The following is the official notification containing the evidence upon which the foregoing proclamation was issued:

[Translation.]

LEGATION OF FRANCE TO THE U. S.,
WASHINGTON, June 12, 1869.

Mr. SECRETARY OF STATE: In conformity with the desire expressed in the note addressed to you by M. Berthemy, of the 19th of March last, I have requested of the Emperor's government to be informed by telegraphic dispatch of the abolition of discriminating duties on merchandise imported into France from the countries of its origin in American vessels.

I have the honor to send you herewith a copy of the notice which I have just received on this subject from his excellency the Minister of Foreign Affairs.

Accept, Mr. Secretary of State, the assurances of my high consideration.

COUNT DE FAVERNEY.

To Hon. HAMILTON FISHER,
Secretary of State.

—

[Translation.]

DATED—1869. RECEIVED IN WASHINGTON JUNE 12.

To the Chargé d'Afaires of France, Washington:

Discriminating duties on merchandise imported from the countries of its origin in American vessels have this day been discontinued in the ports of the empire. Ask for reciprocity.

THE MINISTER
PARIS.

for Foreign Affairs.
ORDERS AND PAPERS ON RECONSTRUCTION.

Orders and Papers relating to Reconstruction, and General Action under the Reconstruction Laws.*

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, July 28, 1868.

General Orders, No. 55:
The following orders from the War Department, which have been approved by the President, are published for the information and government of the army and of all concerned:

The commanding generals of the second, third, fourth, and fifth military districts having officially reported that the States of Arkansas, North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida have fully complied with the acts of Congress known as the reconstruction acts, including the acts passed June 22, 1868, entitled "An act to admit the State of Arkansas to representation in Congress," and the act passed June 25, 1868, entitled "An act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress," and that, consequently, so much of the act of March 2, 1867, and the acts supplementary thereto, as provide for the organization of military districts, subject to the military authority of the United States, as therein provided, has become inoperative in said States, and that the commanding generals have ceased to exercise in said States the military powers conferred by said acts of Congress: therefore, the following changes will be made in the organization and command of military districts and geographical departments:

I. The second and third military districts having ceased to exist, the States of North Carolina, South Carolina, Georgia, Alabama, and Florida, will constitute the department of the South; Major General George G. Meade to command. Headquarters at Atlanta, Georgia.

II. The fourth military district will now consist only of the State of Mississippi, and will continue to be commanded by Brevet Major General A. C. Gillem.

III. The fifth military district will now consist of the State of Texas, and will be commanded by Brevet Major General J. J. Reynolds. Headquarters at Austin, Texas.

IV. The States of Louisiana and Arkansas will constitute the department of Louisiana. Brevet Major General L. H. Rousseau is assigned to the command. Headquarters at New Orleans, Louisiana. Until the arrival of General Rousseau at New Orleans, Brevet Major General Buchanan will command the department.

V. Brevet Major General George Crook is assigned, according to his brevet of major general, to command the department of the Columbia, in place of Rousseau, relieved.

VI. Brevet Major General E. B. Canby is reassigned to command the department of Washington.

VII. Brevet Major General Edward Hatch, colonel 9th cavalry, will relieve General Buchanan as assistant commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands in Louisiana.

By command of General Grant.

E. D. TOWNSEND,
Assistant Adjutant General

ATTORNEY GENERAL'S OFFICE,
August 20, 1868.

ALEXANDER MAGRUDER, Esq.,
United States Marshal Northern District of Florida, St. Augustine, Florida.

Sir: Your letter of the 12th instant reached me yesterday, and has received an attentive consideration. Colonel Sprague's information to you must have been based upon his own construction of General Meade's order lately issued, and not upon any special instructions from the President to Colonel Sprague, through General Meade or otherwise, as no such special instructions have been issued by the President. You add: "Under some circumstances I should be glad to have the aid of the military, and, if practicable, would be pleased to have instructions given to the military to aid me when necessary. I ask this, as Colonel Sprague informs me under his instructions he cannot do so."

This desire and request for the aid of the military under certain circumstances I understand to refer to the occasional necessity which may arise that the marshal should have means of obtaining the aid and assistance of a more considerable force than his regular deputies supply for execution of legal process in his district.

The 27th section of the judiciary act of 1789 establishes the office of marshal, and names among his duties and powers the following: "And to execute throughout the district all lawful precepts directed to him and issued under the authority of the United States, and he shall have power to command all necessary assistance in the execution of his duty, and to appoint, as
there may be occasion, one or more deputies."—

You will observe from this that the only
measure of the assistance which you have power
to command is its necessity for the execution of
your duty, and upon your discreet judgment,
under your official responsibility, the law reposes
the determination of what force each particular
necessity requires. This power of the marshal
is equivalent to that of a sheriff, and with either
embraces, as a resort in necessity, the whole
power of the precinct (county or district) over
which the officer’s authority extends. In de­
finiteness and solemnity the law says it "com­
prises every person in the district or county above the age of fifteen years, whether
civilians or not, and including the military of all
denominations—militia, soldiers, marines—all
of whom are alike bound to obey the commands
of a sheriff or marshal."

While, however, the law gives you this "pow­er to command all necessary assistance," and the
military within your district are not exempt from
obligation to obey, in common with all the citi­zens, your summons, in case of necessity, you
will be particular to observe that this high and
responsible authority is given to the marshal
only in aid of his duty "to execute throughout
the district all lawful precepts directed to him
and issued under the authority of the United
States," and only in case of necessity for this ex­
traordinary aid. The military persons obeying
these summons of the marshal will act in subordi­nation and obedience to the civil officer, the
marshal, in whose aid in the execution of process
they are called, and only to the effect of securing
its execution.

The special duty and authority in the execu­tion of process issued to you must not be con­
founded with the duty and authority of sup­
pressing disorder and preserving the peace,
which, under our Government, belongs to the
civil authorities of the States, and not to the
civil authorities of the United States. Nor are
this special duty and authority of the marshal
in executing process issued to him to be con­
founded with the authority and duty of the
President of the United States in the specific
cases of the Constitution and under the statutes
to protect the States against domestic violence,
or with his authority and duty under special
statutes to employ military force in subduing
combinations in resistance to the laws of the
United States; for neither of these duties or
authorities is shared by the subordinate officers
of the Government, except when and as the same
may be specifically communicated to them by
the President.

I have thus called your attention to the gen­eral considerations bearing upon the subject to
which your letter refers, for the purpose of
securing a due observance of the limits of your
duty and authority in connection therewith.
Nothing can be less in accordance with the na­
ture of our Government or the disposition of our
people than a frequent or ready resort to military
aid in the execution of the duties confided to
civil officers. Courage, vigor, and intrepidity
are appropriate qualities for the civil service
which the marshals of the United States are ex­pected to perform, and a reinforcement of their
power by extraordinary means is permitted by
the law only in extraordinary emergencies.

If it shall be thought that any occasion at any
time exists for instructions to the military author­
ities of the United States within any of the States
in connection with the execution of process of
the courts of the United States, these instructions
will be in accordance with the exigency then
appearing.

I am, sir, very respectfully, your obedient ser­vant,

Wm. M. EVARTS,
Attorney General.

HEADQUARTERS OF THE ARMY,
Assistant General’s Office,
WASHINGTON, August 23, 1868.

Major General C. G. MEADE, U. S. A.,
Commanding Department of South,
Atlanta, Georgia.

GENERAL: In reply to your request for in­
tuction relative to the use of troops under
your command in aid of the civil authorities,
the Secretary of War directs to be furnished
for your information and government the enclosed
copies of a letter of instructions to Brevet Major
General Buchanan, commanding department of
Louisiana, dated August 10, 1868, and of a letter
from the Attorney General of the United States
to Alexander Magruder, esq., United States
marshal, northern district of Florida, dated
August 20, 1868.

The letter to General Buchanan indicates the
conditions under which the military power of
the United States may be employed to sup­
press insurrection against the government of any
State, and prescribes the duties of the depart­
ment commander in reference thereto.

The letter of the Attorney General sets forth
the conditions under which the marshals and
sheriffs may command the assistance of the
troops in the respective districts or counties to
execute lawful precepts issued to them by com­
petent authority.

The obligations of the military, (individual offi­
cers and soldiers,) in common with all citizens,
to obey the summons of a marshal or sheriff,
must be held subordinate to their paramount
duty as members of a permanent military body.

Hence the troops can act only in their proper
organized capacity, under their own officers, and
in obedience to the immediate orders of their
officers. The officer commanding troops sum­
moned to the aid of a marshal or sheriff must
also judge for himself, and upon his own official
responsibility, whether the service required of
him is lawful and necessary, and compatible
with the proper discharge of his ordinary mili­
itary duties, and must limit the action absolutely
proper aid in execution of the lawful precept
exhibited to him by the marshal or sheriff.

If time will permit, every demand from a civil
officer for military aid, whether it be for the ex­
cution of civil process or to suppress insurrection,
shall be forwarded to the President, with all the
material facts in the case, for his orders; and in
case the highest command whose orders
can be given in time to meet the emergencies
will alone assume the responsibility of action.
By a timely disposition of troops where there is reason to apprehend a necessity for their use, and by their passive interposition between hostile parties, dangers of collision may be averted. Department commanders, and in cases of necessity their subordinates, are expected, in this regard, to exercise, upon their own responsibility, a wise discretion, to the end that in any event the peace may be preserved.

By command of General Grant.

J. C. Kelton,
Assistant Adjutant General.

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, October 31, 1865.

General Orders, No. 90. The following order has been received from the War Department, and is published for the information and guidance of all concerned:

Soldiers may, for certain offences not strictly military, be sentenced by general court-martial to confinement in a penitentiary.

If any State in a military department has made provision by law for confinement in a penitentiary thereof of prisoners under sentence by courts-martial of the United States, the department commander may designate such penitentiary as a place for the execution of any such sentence to penitentiary confinement; but if no such provision has been made by any State in the department, the record will be forwarded to the Secretary of War for designation of a prison.

The authority which has designated the place of confinement, or higher authority, can change the place of confinement, or mitigate or remit the sentence.

The same rules apply to prisoners sentenced by military commission, so long as the law under which the military commission acted is in force; but when that law ceases to be operative, the President alone can change the place of confinement, or mitigate or remit the sentence.

By command of General Grant.

E. D. Townsend,
Assistant Adjutant General.

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, November 4, 1865.

General Orders, No. 91. The following orders have been received from the War Department:

WAR DEPARTMENT,
WASHINGTON CITY, November 4, 1865.

By direction of the President, Brevet Major General E. R. S. Canby is hereby assigned to the command of the 5th military district, created by the act of Congress of March 2, 1867, and of the military department of Texas, consisting of the State of Texas. He will, without unnecessary delay, turn over his present command to the next officer in rank, and proceed to the command to which he is hereby assigned, and, assuming the same, will, when necessary to a faithful execution of the laws, exercise any and all powers conferred by acts of Congress upon district commanders, and any and all authority pertaining to officers in command of military departments.

Brevet Major General J. J. Reynolds is hereby relieved from the command of the 5th military district.

J. M. Schoemph,
Secretary of War.

II. In pursuance of the foregoing order of the President of the United States, Brevet Major General Canby will, on receipt of this order, turn over his present command to the officer next in rank to himself, and proceed to Austin, Texas, to relieve Brevet Major General Reynolds of the command of the 5th military district.

By command of General Grant.

E. D. Townsend,
Assistant Adjutant General.

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, March 5, 1866.

General Orders, No. 10. The President of the United States directs that the following orders be carried into execution as soon as practicable:

1. The department of the South will be commanded by Brigadier and Brevet Major General A. H. Terry.

2. Major General G. G. Meade is assigned to command the military division of the Atlantic, and will transfer his headquarters to Philadelphia, Pennsylvania. He will turn over his present command temporarily to Brevet Major General T. H. Roger, colonel 33rd infantry, who is assigned to duty according to his brevet of major general while in the exercise of this command.

3. Major General P. H. Sheridan is assigned to command the department of Louisiana, and will turn over the command of the Missouri temporarily to the next senior officer.

4. Major General W. S. Hancock is assigned to command the department of Dacotah.

5. Brigadier and Brevet Major General E. S. Canby is assigned to command the first military district, and will proceed to his post as soon as relieved by Brevet Major General Reynolds.

6. Brevet Major General A. G. Gillem, colonel 24th infantry, will turn over the command of the fourth military district to the next senior officer, and join his regiment.

7. Brevet Major General J. J. Reynolds, colonel 20th infantry, is assigned to command the fifth military district, according to his brevet of major general.

8. Brevet Major General W. H. Emory, colonel 5th cavalry, is assigned to command the department of Washington, according to his brevet of major general.

By command of the general of the army.

E. D. Townsend,
Assistant Adjutant General.

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, March 16, 1866.

General Orders, No. 18. By direction of the President of the United States, the following changes are made in military divisions and department commands:

1. Lieutenant General P. H. Sheridan is assigned to command the military division of the Missouri.

II. Major General H. W. Halleck is assigned to command the military division of the South, to be composed of the departments of the South and Louisiana, of the fourth military district, and of the States composing the present department of the Cumberland, headquarters Louisville, Kentucky. Major General Halleck
ORDERS AND PAPERS ON RECONSTRUCTION, ETC.

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will proceed to his new command as soon as relieved by Major General Thomas.

IV. Major General G. H. Thomas is assigned to command the military division of the Pacific.

V. Major General J. M. Schofield is assigned to command the department of the Missouri. The State of Illinois and posts of Fort Smith, Arkansas, are transferred to this department.

VI. Brigadier and Brevet Major General O. O. Howard is assigned to command the department of Louisiana. Until his arrival, the senior officer, Brevet Major General J. A. Mower, will command according to his brevet of major general.

VI. The department of Washington will be discontinued and merged in the department of the East. The records will be sent to the adjutant general of the army.

VII. The first military district will be added to the military division of the Atlantic.

VIII. As soon as Major General Thomas is ready to relinquish command of the department of the Cumberland, the department will be discontinued, and the States composing it will be added to other departments, to be hereafter designated. The records will be forwarded to the adjutant general of the army.

By command of General Sherman:

E. D. TOWNSEND,
Assistant Adjutant General.

HEADQUARTERS OF THE ARMY,
Assistant General's Office.
WASHINGTON, March 31, 1869.
Special Orders, No. 75.

ORDERS OF THE DISTRICT COMMANDERS.*

First Military District—Virginia.

HEADQUARTERS DEPARTMENT OF VIRGINIA,
RICHMOND, VA., June 23, 1869.

General Order, No. 77.
The laws of the State of Virginia and the ordinances of the different municipalities within the State having special reference to and made to restrain the personal liberty of free colored persons were designed for the government of such persons while living amid a population of colored slaves; they were enacted in the interests of slave-owners, and were designed for the security of slave property; they were substantially parts of the slave code.

Slavery has been abolished in Virginia; and, therefore, upon the principle that where the reason of the law ceases the law itself ceases, these laws and ordinances have become obsolete. People of color will henceforth enjoy the same personal liberty that other citizens and inhabitants enjoy; they will be subject to the same restraints and to the same punishments for crimes that are imposed on whites, and to no others.

Vagrancy, however, will not be permitted; neither whites nor blacks can be allowed to abandon their proper occupations, to desert their families, or roam in idleness about this department; but neither whites nor blacks will be restrained from seeking employment elsewhere, when they cannot obtain it with just compensation at their homes, nor from travelling from place to place on proper and legitimate business.

Until the civil tribunals are re-established, the administration of criminal justice must of necessity be by military courts. Before such courts the evidence of colored persons will be received in all cases.

By command of Major General A. H. Terry.

R. S. FOOTE, A. A. G.

Official: A. R. S. Foote, A. A. G.

1860, February 8—All civil officers, corporations, &c., required to make returns to the legislature, ordered to make the same to headquarters.

March 15—The joint resolution respecting the provisional governments of Virginia and Texas was pronounced, and all officers unable to take the test oath removed, to take effect the 18th instant.

March 18—Removal in accordance with above order suspended till the 21st instant.

March 21—General Stoneman submitted his report, which showed that there were 5,416 offices in the State, 532 of which had been filled by General Schofield, 1,972 by General Stoneman, 320 could take the oath, and 2,613 were unfilled, owing to the difficulty in finding men able to take the test oath.

March 22—The mayor of Richmond asked the commanding officer if the appointment of colored policemen would meet his approval, who on the 23d answered that it would, and so their appointment to all positions to which they were eligible and for which they were competent.

March 27—General Stoneman took upon himself the duties of governor, removing Governor Wells.

March 30—In compliance with Special Order, 75, A. G. O., Brevet Major General A. O. Webb assumed command.

April 2—Governor Wells was reinstated.

April 3—It appearing that the organization of civil government under the reconstruction laws in certain counties proved to be impossible, since suitable persons to qualify and assume the duties of the various offices of this district, under the
laws of the United States, had not been found, military officers were again appointed in some sections of the State.

April 20—General E. R. S. Canby assumed command.

April 22—All officers of the provisional government ordered to take the test oath.

May 7—Orders that all persons elected or appointed to civil offices who have subscribed the oath of office of July 2, 1862, and filed the same with county clerks or with other civil officers, will cause duly certified copies of said oath to be made and filed at these headquarters, that their ability to qualify under the joint resolution of Congress passed February 28, 1863, (Public, No. 6,) may be definitely ascertained. A failure to send forward such oath will be an indication that the office is vacated under the resolution before cited.

May 27—Assigns to the military commissioners and superintendents of registration and election, invested with the powers of justices of the peace and police magistrates, to be governed in the execution of their duties by the laws of Virginia, except so far as these laws may conflict with the laws of the United States or with the orders issued from these headquarters; places at their disposition all peace officers, in addition to troops, to examine or handle record-books, or receive ballots at each polling place: one to receive ballots, another for or against the separate clauses to be voted on; a committee of not more than three persons from each political party to witness ballot-counting, but none save sworn election officers to examine or handle poll-lists, ballot-boxes, or ballots.

In justification of his test-oath order, General Canby wrote the following letter:

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA, RICHMOND, VA., June 20, 1869.

Mr. B. W. GILES, Richmond, Va.

SIR: I have received your note of the 23d instant, and will state in reply to the inquiries therein made—

First. That I have uniformly held that members of the general assembly and State officers to be elected on the 6th proximo would be required to take, before entering upon the duties of their offices, the oath prescribed by the law of July 2, 1862, unless the constitution should first be approved by Congress, or the oath be otherwise dispensed with by law.

Second. That this decision is in conformity with the action heretofore taken upon the same subject in another district, and was based upon a careful consideration of all the laws bearing upon the question now presented.

The 6th section of the law of March 23, 1867, provides "That until the people of the said rebel States shall be by law admitted to representation in the Congress of the United States, any government which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States to abolish, modify, control, or supersede the same." The conditions that must prevail for this admission to representation are prescribed by the 5th section of the same law, the 6th section of the law of March 23, 1867, and the 6th section of the law of April 20, 1869. The same section provides "That until the people of the said rebel States shall be by law admitted to representation in the Congress of the United States, any government which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States to abolish, modify, control, or supersede the same." The conditions that must prevail for this admission to representation are prescribed by the 5th section of the same law, the 6th section of the law of March 23, 1867, and the 6th section of the law of March 23, 1867, modified the qualifications of voters in all elections to office, and the qualifications (eligibility) of officers under such provisional governments.

The supplementary law of March 23, 1867, prescribed the qualifications of voters in all elections to office, and the qualifications (eligibility) of officers under such provisional governments.

The 5th section of the same law, the 6th section of the law of March 23, 1867, and the 6th section of the law of April 20, 1869, prescribed the qualifications of voters by prescribing registration and determining the conditions essential to registration, and the amendatory law of March 13, 1868, section 2, applied the same qualifications (registered voters) to the voters for members of the House of Representatives of the United States, and all elective offices provided for by those constitutions, at the elections to be held upon the questions of ratifying or rejecting the proposed constitutions, and the 9th section of the law of July 19, 1867, imposed an additional qualification upon the officers, by requiring that they shall take the oath of office prescribed by the law of July 2, 1862.

Under the original law of March 2, 1867, (section 5,) it was in the power of the district command to prescribe an oath of office, conforming to the conditions of eligibility prescribed by that section, and this in fact was done by several of the district commanders in this district by General Orders, No. 8, of April 5, 1867, and these oaths continued in force until they were superseded by the oath required by the law of July 19, 1867. That law placed the subject beyond the discretion and control of the district commander, and he cannot now prescribe or adopt any different oath without disregarding or annulling a positive and controlling law. I have therefore held, and do now hold, that the approval of Congress of any proposed constitution makes it a part of the reconstruction laws, and, to the extent that Congress directs or authorizes any action under it in advance of the
admission of the State, dispenses with the provisions of any previous laws that conflict with it. In all other respects the constitutions and the governments organized under them remained inoperative until all the conditions of restoration were satisfied. It has been suggested recently that this decision is in conflict with a decision made by the general in relation to the State of Georgia, on the 2d of March, 1868, the only decision of that date which I have been able to find relates to the State of Florida, and is in reply to a specific inquiry as to the qualifications of voters for office under the constitution, "an answer to the question of the adoption of the constitution," and the answer is to be interpreted by the decision of January 13, 1868, that "The governments elected and inoperative until the elections of 1862 for the Constitutional conventions of the States named in the acts to which this is amendatory may provide, that at the time of voting upon the ratification of the constitution, the registered voters may vote for representatives of the House of Representatives of the United States and for all elective officers provided by said constitution." The "voters" at the election to be held in this State for members of the general assembly," "State officers," and "members of Congress," under the authority of the 2d section of the law of April 10, 1869, are determined by the 1st section of that law to be the "voters of said State registered at the date of said submission (of the constitution) for ratification or rejection." The qualification of the officers rests upon the same basis, and must be governed by the constitution which becomes the controlling law, and this does not obtain until it has been approved by Congress. Over the remaining suggestions the district commander has no control, and the question whether the laws are or are not in conflict with the constitution must be determined by the Supreme Court of the United States.

Very respectfully, your obedient servant,

ED. R. S. CANBY,
Brig. Gen. (P. M. 1., commanding.

Second Military District-North Carolina and South Carolina.

1868, July 2—Various appointments of railroad directors, &c., made by Governor Worth annulled.

July 2—Legislature of North Carolina ratified the XIVth constitutional amendment.

July 3—General Canby telegraphed to Governor Holden, "Your telegram announcing the ratification of the constitutional amendment by the Legislature of North Carolina has been received, and instructions will be sent to the military commanders in North Carolina to abstain from the exercise of any authority under the reconstruction laws, except to close up unfinished business, and not to interfere in any civil matters unless the execution of the law of June 25, 1868, should be obstructed by unlawful or forcible opposition to the inauguration of the new State government."

July 6—Issued instructions as to the course to be pursued by commanding officers on ratification of XIVth amendment in North Carolina, and issue of the President's proclamation.
July 9—The Legislature of South Carolina ratified the XIVth constitutional amendment.
July 13—Order similar to that of July 6 in relation to South Carolina.
July 24—All authority conferred upon and hereafter exercised by the commander of the said second military district, by and under the aforesaid law of March 2, 1867, remitted to the civil authorities constituted and organized in the said States of North Carolina and South Carolina under the constitutions adopted by the people thereof and approved by the Congress of the United States.

Third Military District—Georgia, Florida, and Alabama.
1868, April 10—The resignations of sheriffs in Georgia being very numerous on account of the near approach of the election, their resignations were not received, and they were required to continue in the discharge of their duties till relieved by further orders.
Forbade the employment of employers to control the action or will of their laborers as to voting, by threats of discharge or other oppressive means, under the penalty of fine and imprisonment. Announced it as the intention of the commanding general to secure to all duly registered voters an opportunity to vote "freely and without restraint, fear, or the influence of fraud."
April 11—Forbade all municipal elections in Georgia on the general election day. Forbade the assembling of any armed bodies to discuss political questions. Forbade the carrying of arms at or near polling places on election day. Enjoined the superintendents of registration and the assembling of any armed bodies to discuss political questions. Forbade the carrying of arms at or near polling places on election day. Enjoined the superintendents of registration and officers of Freedmen's Bureau to instruct the freedmen as to their rights.
April 13—It having been reported that many names have been stricken from the registered list of voters in Georgia without any cause, and it being the determination of the commanding general that all the candidates shall be able to show, from official data, that the election was honestly and fairly conducted, all managers of elections were ordered to receive the votes of all such persons, to be sent in a separate envelope the rights.
April 15—Members of the General Assembly of Georgia taking their seats before the ratification of the XIVth constitutional amendment are officers of a provisional government, and required to take the test-oath.
April 24—Allowed the employment on the highway of such persons as had been convicted of minor offenses, permitted the use of the ball and chain where there was danger of escape, but the chain-gang not to be revived.
May 11—Declared the constitution of Georgia ratified by a majority of 17,000.
June 2—Declared the constitution of Florida ratified by a majority of 5,050.
June 9—Legislature of Florida ratified the XIVth constitutional amendment.
June 28—Bafus B. Bullock appointed Governor of Georgia, vice Brevet Brigadier General T. H. Rogers, to date from July 5. William H. Smith, Governor, vice R. M. Patton removed, and A. J. Applegate, Lieutenant Governor, of Alabama, both to date from July 13.
June 22—All civil officers in Florida ordered to turn over all public property, &c., to duly elected officers, and the district commander, on notification of the inauguration of civil government, to transfer everything appertaining to the government of said State to the proper civil officers, and to abstain in future upon any pretext whatever from any interference with or control over the civil authorities of the State in the persons and property of the citizens thereof.
July 2—Forbade any court or ministerial officer in Georgia to enforce any judgment, decree, or execution against any real estate, except for taxes, money borrowed and expended in the improvement of the homestead or for the purchase-money of the same, and for labor done thereon or material furnished therefor, or removal of incumbrance thereon, until the legislature should have time to provide for the setting apart and valuation of such property.
July 3—Governor R. B. Bullock ordered to effect organization of the two houses of the legislature of Georgia on the 4th inst.
July 9—Governor Wm. H. Smith ordered to organize the two houses of the legislature of Alabama on the 15th inst., having required beforehand that each house shall be purged of those who were obnoxious to the XIVth constitutional amendment.
July 13—The legislature of Alabama ratified the XIVth constitutional amendment.
July 14—Military rule withdrawn from the State of Alabama. All prisoners ordered to be turned over to civil courts. Writs from State courts to be answered by stating that the prisoners are prisoners of the United States, and writ must come from United States court.
July 21—Legislature of Georgia ratified the XIVth constitutional amendment.
July 22—Military rule withdrawn from Georgia.

Headquarters Third Military District, (Dept. of Georgia, Florida, and Alabama), Atlanta, Ga., July 30, 1868.
General Orders, No. 109.
I. The several States comprising this military district having, by solemn acts of their Assemblies, conformed to the requirements of the act of Congress which became a law June 25, 1868, and civil government having been inaugurated in each, the military power vested in the district commander by the reconstruction laws, by the provisions of these laws ceases to exist, and hereafter all orders issued from these headquarters, and bearing upon the rights of persons and property, will have in the several States of Georgia, Alabama, and Florida only such force as may be given to them by the courts and legislatures of the respective States.

By order of Major General Meade:
S. F. Barse, A. A. A. G.

Fourth Military District—Mississippi and Arkansas.
1868, June 22—Arkansas admitted to representation in Congress.
June 28—Election in Mississippi, constitution defeated.
June 30—Military rule withdrawn from Arkansas.
August 5—Arkansas detached from the fourth military district and attached to the department of Louisiana.

1865, March 23—All offices held by persons unable to take the test-oath and whose disabilities have not been removed declared vacant.

April 9—Annuls an act of the legislature of Mississippi of 1867 in regard to poll-tax, fixing it at one dollar instead of two. No city or town allowed to levy a poll-tax.

April 27—Ordered that all persons, without respect to race, color, or previous condition of servitude, who possess the qualifications prescribed by article 135, page 499, of the Revised Code of 1857, shall be competent jurors.

Fifth Military District—Louisiana and Texas.

1868, July 9—Legislature of Louisiana ratified the XIVth constitutional amendment.

July 13—Military rule withdrawn from Louisiana.

August 4—Louisiana detached from the fifth military district.

September 18—The constitutional convention of the State of Texas, on the 25th day of August, 1869, levied a tax of one-fifth of one per cent. on the assessment of 1865; which tax the assessors and collectors now have instructions to collect. It is hereby ordered that the tax be promptly paid. Any obstruction or resistance to the collection of said tax will be a violation of the law of Congress, and as such will be punished by military authority.

September 29—No election for electors of President and Vice President of the United States will be held in the State of Texas on the 3d of November next. Any assemblage, proceeding, or act for such purpose is hereby prohibited, and all citizens are admonished to remain at home, or attend to their ordinary business on that day.

November 4—General Reynolds removed from command. General E. B. Canby assigned to the fifth military district.

December 7—The constitutional convention reassembled.

1869, January 10—Divided the State into posts, giving instructions as to the duties of the commanding officers of each, and calling on all good citizens to unite in enforcing the law and establishing a good government.

January 20—Forbids all military interference where civil power is sufficient to insure justice and order, and requires all things to be done as nearly in accordance with the laws of the States as may be, and promises the support of the military in every case of need to the civil authorities.

January 21—Authorizes post commanders to admit to bail persons not subject to Articles of War held in military arrest. Prescribes the form of bond.

"II. The commanding general is advised that in some of the counties of this State it has been the practice of the sheriff, in calling for assistance in the execution of legal process, to summon only persons who are of the same political party. The administration of justice should not only be impartial, but its agents should be free from the suspicion of political or partisan bias; and it is made the duty of all sheriffs and peace officers in all cases where they may lawfully require assistance, to summon substantial citizens of the county, whose social and material interests are involved in the peace and prosperity of the community, without reference to their political opinions.

"For like reasons, no person who is personally or pecuniarily interested in any issue to be tried will hereafter be deputed to serve or be summoned to aid in the service of any legal process connected with the particular cause of action."

HEADQUARTERS FIFTH MILITARY DISTRICT,
AUSTIN, TEXAS, April 7, 1869.

General Orders, No. 66.

The provisions of chapter 63, general laws of the 11th legislature, State of Texas, passed October 27, 1866, are so modified, that hereafter no county judge or county court shall appoint any child whose relatives, either by consanguinity or affinity, take such care of it as to prevent it becoming a charge upon the public, and in every case where a child has been apprenticed by the court since the 10th day of June, 1865, the indentures shall be cancelled by the court that ordered them, when the relatives of such child, either by consanguinity or affinity, apply to the county court for the custody and care of it.

It is further ordered, that the bond required by section 9 of said act shall, in addition to the conditions therein prescribed, provide for the tuition of such child in some private or public school for three months in every year of the apprenticeship.

In any case where a sale of real estate may be made under execution or other judicial process, or "under a mortgage or deed of trust," and the proceeds of such sale are for the benefit of the State of Texas, the Governor and attorney general may direct that such real estate shall be sold in the State, if in their judgment the interest of the State will thereby be promoted; and the deed in such case shall be executed to the State of Texas in the same manner and with like effect as if the purchase had been made by an individual.

The State of Texas shall in no case be required to give any bond or other security in the prosecution of its suits or remedies in the courts of the State.

The operation of the act of the 11th legislature of Texas, providing "for the education of indigent white children of the several counties of the State," passed November 12, 1866, is hereby suspended until the legislature shall provide for an equal system of common schools. All moneys collected for the purposes named in the act above cited, and not paid out or due under existing contracts or agreements, are hereby directed to be paid to the treasurers of the several counties wherein the same shall have been collected, and said treasurers are directed and required to receipt and account for the same as by law required with reference to other moneys not applicable to any special fund or purpose.

By command of Bvt. Maj. Gen. E. B. S. Canby:

Louis Y. Cattrace,
A. D. C.
A. A. G.

April 12.—All civil officers in the State who cannot take the test-oath will cease to perform official duties on the 25th instant.

New Constitution of Texas.

The constitution of the State of Texas, adopted by the convention, and to be submitted to a vote of the people at a time to be indicated by the President, contains in the preamble an acknowledgment, with gratitude, of the grace of God in permitting them to make a choice of our form of government.

In the bill of rights are these declarations:

That the heresies of nullification and secession, which brought the country to grief, may be eliminated from our public order may be restored, private property and human life protected, and the great principles of liberty and equality secured to us and our posterity, we declare to expedient.

The Constitution of the United States, and the laws and treaties made and to be made in pursuance thereof, are acknowledged to be the supreme law; that this constitution is framed in harmony with and in subordination thereto; and that the fundamental principles embodied herein can only be changed subject to the national authority.

All freemen, when they form a social compact, have equal rights, and no man or set of men is entitled to exclusive separate public emoluments or privileges.

No law shall be passed depriving a party of any remedy of the enforcement of a contract which existed when the contract was made.

No person shall ever be imprisoned for debt.

No law shall be passed depriving a party of the duties of his office, and he shall have a right to be heard in his own defense.

The governor may at all times require information in writing from all the officers of the executive department on any subject relating to the duties of their offices, and he shall have a general supervision and control over them.

He shall have the power of removal of each of said officers, except the lieutenant governor, for misbehaviour, maladministration, or non-administration; but the reasons and causes of such removal shall be communicated in writing by him to the senate at the first meeting of the legislature which occurs after the ratification of this constitution.

The legislature shall proceed, as early as practicable, to elect senators and representatives to this State in the Senate of the United States; and also provide for future elections of representatives to the Congress of the United States; and on the second Tuesday after the first assembling of the legislature after the ratification of this constitution the legislature shall proceed to ratify the 13th and 14th articles of amendment to the Constitution of the United States of America.

The governor may at all times require information in writing from all the officers of the executive department on any subject relating to the duties of their offices, and he shall have a general supervision and control over them.

The governor has the veto power, subject to an overriding vote of two-thirds of each house.

The supreme judges to be appointed by the governor, with approval of the senate, to serve for nine years.

Every male citizen of the United States, of the age of twenty-one years and upwards, not laboring under the disabilities named in this constitution, shall be a resident of this State at the time of the adoption of this constitution, or who shall hereafter reside in this State one year, and in the county in which he offers to vote sixty days next preceding any election, shall be entitled to vote for all offices that are now or hereafter may be elected by the people, and upon all questions submitted to the electors at any election; provided, that no person shall be allowed to vote or hold office who is now or hereafter may be disqualified thereby from the Constitution of the United States.
until such disqualification shall be removed by the Congress of the United States; provided, further, that no person while kept in any asylum, or confined in prison, or who has been convicted of felony, or who is of unsound mind, shall be allowed to vote or hold office.

It shall be the duty of the legislature of the State to make suitable provisions for the support and maintenance of a system of public free schools, for the gratuitous instruction of all the inhabitants of this State between the ages of six and eighteen years.

The legislature shall establish a uniform system of public free schools throughout the State. The legislature at its first session (or as soon thereafter as may be possible) shall pass such laws as will require the attendance of a public free school of the State of all the scholastic population thereof for the period of at least four months of each and every year; provided, that whenever any of the scholastic inhabitants may be shown to have received regular instruction for said period of time in each and every year from any private teacher, having a proper certificate of competency, this shall exempt them from the operation of the laws contemplated by this section.

As a basis for the establishment and endowment of said public free schools, all the funds, lands, and other property heretofore set apart and appropriated for the support and maintenance of public schools shall constitute the public school fund; and all sums of money that may arise from the sale of any portion of the public domain of the State of Texas shall also constitute a part of the public school fund. And the legislature shall appropriate all the proceeds resulting from sales of public lands of this State to such public school fund. And the legislature shall set apart, for the benefit of public schools, one fourth of the annual revenue derivable from general taxation, and shall also cause to be levied and collected an annual poll-tax of one dollar on all male persons in this State between the ages of twenty-one and sixty years for the benefit of public schools. And said fund and the income derived therefrom, and the taxes herein provided for school purposes, shall be applied, as needed, exclusively for the education of all the scholastic inhabitants of this State, and no law shall ever be made appropriating such fund for any other use or purpose whatever.

The legislature shall, if necessary, in addition to the income derived from the public school fund and from the taxes for school purposes provided for in the foregoing section, provide for the raising of such amount, by taxation, in the several school districts in the State, as will be necessary to provide the necessary school-houses in each district and insure the education of all the scholastic inhabitants of the several districts.

The public lands heretofore given to counties shall be under the control of the legislature, and may be sold under such regulations as the legislature may prescribe; and in such case the proceeds of the same shall be added to the public school fund.

The legislature shall, at its first session, (and from time to time thereafter, as may be found necessary,) provide all needful rules and regulations for the purpose of carrying into effect the provisions of this article. It is made the imperative duty of the legislature to see to it that all the children in the State, within the scholastic age, are without delay provided with ample means of education. The legislature shall annually appropriate for school purposes, and to be equally distributed among all the scholastic population of the State, the interest accruing on the school fund and the income derived from taxation for school purposes, and shall, from time to time, as may be necessary, invest the principal of the school fund in the bonds of the United States Government, and in no other security.

To every head of a family, who has not a homestead, there shall be donated one hundred and sixty acres of land out of the public domain, upon the condition that he will select, locate, and occupy the same for three years, and pay the office fees on the same. To all single men twenty one years of age there shall be donated eighty acres of land out of the public domain, upon the same terms and conditions as are imposed upon the head of a family.

Members of the legislature, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I (A. B.) do solemnly swear (or affirm), that I will faithfully and impartially discharge and perform all duties incumbent on me as ——, according to the best of my skill and ability, and that I will support the Constitution and laws of the United States of America, and of this State. And I do further swear (or affirm), that since the acceptance of this constitution by the Congress of the United States, I, being a citizen of this State, have not fought a duel with deadly weapons, or committed an assault upon any person with deadly weapons, or sent or accepted a challenge to fight a duel with deadly weapons, or acted as second in fighting a duel, or knowingly aided or assisted any one thus offending, either within the State or out of it; that I am not disqualified from holding office under the 14th amendment to the Constitution of the United States, (or, as the case may be, my disability to hold office under the XIV amendment to the Constitution of the United States has been removed by act of Congress;) and, further, that I am a qualified elector in this State."

Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting under adequate penalties all undue influence thereon from power, bribery, tumult, or other improper practice.

The legislature shall provide by law for the compensation of all officers, servants, agents, and public contractors, not provided for by this constitution, and shall not grant extra compensation to any officer, agent, servant, or public contractor, after such public service shall have been performed, or contract entered into for the performance of same; nor grants, by appro-
priation or otherwise, any amount of money out of the treasury of the State, to any individual, on a claim, real or pretended, where the same shall not have been provided for by pre-existing law.

General laws, regulating the adoption of children, emancipation of owners, and the granting of divorces, shall be made; but no special law shall be enacted relating to particular or individual cases.

The rights of married women to their separate property, real and personal, and the increase of the same, shall be protected by law; and married women, infants, and insane persons, shall not be liable to the rights of the party by adverse possession or law of limitation of less than seven years from and after the removal of each and all of their respective legal disabilities.

The legislature shall have power, and it shall be their duty, to protect by law from forced sale a certain portion of the property of all heads of families. The homestead of a family, not to exceed two hundred acres of land (not included in a city, town, or village) or any city, town, or village lots or lots, not to exceed five thousand dollars in value at the time of their designation as a homestead, and without reference to the value of any improvements thereon, shall not be subject to forced sales for debts, except they be for the purchase thereof, for the taxes assessed thereon, or for labor and materials expended thereon, nor shall the owner, if a married man, be at liberty to alienate the same unless by the consent of the wife, and in such manner as may be prescribed by law.

All persons who at any time heretofore lived together as husband and wife, and both of whom, by the law of bondage, were excluded from the advantages of marriage and continued to live together until the death of one of the parties, shall be considered as having been legally married and the issue of such cohabitation shall be deemed legitimate, and all such persons as may be now living together in such relation shall be considered as having been legally married, and the children heretofore or hereafter born of such cohabitation shall be deemed legitimate.

No minister of the Gospel, or priest of any denomination whatever, who accepts a seat in the legislature as representative, shall, after such acceptance, be allowed to claim exemption from military service, road duty, or serving on juries, by reason of his said profession.

The ordinance of the convention passed on the first day of February, A. D. 1861, commonly known as the ordinance of secession, was in contravention of the Constitution and laws of the United States, and therefore null and void from the beginning; and all laws and parts of laws founded thereon were also null and void from the date of their passage. The legislatures which sat in the State of Texas from the 18th day of March, A. D. 1861, until the 6th day of August, A. D. 1865, had no constitutional authority to make laws binding upon the people of the State of Texas: Provided. That this section shall not be construed to inhibit the authorities of this State from re-acting and enforcing such rules and regulations as were prescribed by the said legislatures which were not in violation of the Constitution and laws of the United States, or in aid of the rebellion against the United States, or prejudicial to citizens of this State who were loyal to the United States, and which have been actually in force or observed in Texas during the above period of time, nor to affect judicially private rights which may have grown up under such rules and regulations, nor to invalidate official acts not in aid of the rebellion against the United States during said period of time. The legislature which assembled in the city of Austin on the 6th day of August, A. D. 1866, was provisional only, and its acts are to be respected only so far as they were not in violation of the Constitution and laws of the United States, or were not intended to reward those who participated in the rebellion or discriminate between citizens on account of race or color, or to operate prejudicially to any class of citizens.

All debts created by the so-called State of Texas from and after the 28th day of January, A. D. 1861, and prior to the 5th day of August, A. D. 1865, were and are null and void, and the legislature is prohibited from making any provision for the acknowledgment or payment of such debts. All unpaid balances, whether of salary, per diem, or monthly allowance due to employees of the State, who were in the service thereof on the said 28th day of January, A. D. 1861, civil or military, and who gave their aid, countenance, or support to the rebellion then inaugurated against the Government of the United States, or turned their arms against the said Government, thereby forfeited the sums severally due to them.

All the ten per cent. warrants issued for military services, and exchanged during the rebellion at the treasury for non-interest warrants, are hereby declared to have been fully paid and discharged: Provided, That any loyal person, or his heirs or legal representatives, may, by proper legal proceedings, to be commenced within two years after the acceptance of this constitution by the Congress of the United States, show proof in avoidance of any contract made or receive or annul any decree or judgment rendered since the said 28th day of January, A. D. 1861, when, through fraud practiced or threats of violence used towards such persons, no adequate consideration for the contract has been received; or when, through absence from the State of such person, or through political prejudice against such person, the decision complained of was not fair or impartial.

All the qualified voters of each county shall also be qualified jurors of such county.

The election on the adoption of the constitution to be held on the first Monday in July, A. D. 1869, at the places and under the regulations to be prescribed by the commanding general of the military district.
SUPREME COURT OF THE UNITED STATES.

On the Right of a State to Tax Passengers Passing through It.

No. 85. December Term, 1867.


Mr. Justice Miller delivered the opinion of the court.

The proposition to be considered is the right of a State to levy a tax upon persons residing in the State who may wish to get out of it, and upon persons not residing in it who may have occasion to pass through it.

It is to be regretted that such a question should be submitted to our consideration with neither brief nor argument on the part of plaintiff in error. But our regret is diminished by the reflection, that the principles which must govern its determination have been the subject of much consideration in cases heretofore decided by this court.

The plaintiff in error, who was the agent of a stage company engaged in carrying passengers through the State of Nevada, was arrested for refusing to report the number of passengers that had been carried by the coaches of his company, and for refusing to pay the tax of one dollar imposed on each passenger by the law of that State. He pleaded in good form that the law was void, because it was in conflict with the Constitution of the United States; and his plea was overruled, the case came into the supreme court of the State, where it was decided against him.

We shall have occasion to refer hereafter somewhat in detail to the opinions of the judges of the Supreme Court in the Passenger Cases, 7 Howard, in which there were wide differences on several points involved in the case before us. In the case from New York then under consideration, the court held the law to be valid. Said statute provided that the health commissioner should be entitled to demand and receive from the master of every vessel that should arrive in the port of New York from a foreign port, according to the number of passengers; but the court held it to be a tax upon the passenger, and that the master was the agent of the State for its collection. Chief Justice Taney, while he differed from the majority of the court and held the law to be valid, said of the tax levied by the analogous statute of Massachusetts, that “its payment is the condition upon which the State permits the alien passenger to come on shore and mingle with its citizens and to reside among them. It is demanded of the captain, and not from every separate passenger, for convenience of collection. But the burden evidently falls upon the passenger, and he in fact pays it, either in the enhanced price of his passage or directly to the captain before he is allowed to embark for the voyage.”

The provisions of the statute charged to be in violation of the Constitution are to be found in sections 90 and 91 of the revenue act of 1864, page 271 of the statutes of Nevada for that year. Section 90 enacts, that “there shall be levied and collected a capitation tax of one dollar upon every person leaving the State by any railroad, stage-coach, or other vehicle engaged or employed in the business of transporting passengers for hire;” and that the proprietors, owners, and corporations so engaged shall pay said tax of one dollar for each and every person so conveyed or transported from the State. Section 91, for the purpose of collecting the tax, requires from persons engaged in such business a report every month, under oath, of the number of passengers transported, and the payment of the tax to the sheriff or other proper officer. It is claimed by counsel for the State that the tax thus levied is not a tax upon the passenger, but upon the business of the carrier who transports him.

If the act were much more skilfully drawn to sustain this hypothesis than it is, we should be very reluctant to admit that any form of words which had the effect to compel every person traveling through the country by the common and usual modes of public conveyance to pay a specific sum to the State was not a tax upon the right thus exercised. The statute before us is not, however, embarrassed by any nice difficulties of this character. The language which we have just quoted is, that there shall be levied and collected a capitation tax upon every person leaving the State by any railroad or stage-coach, and the remaining provisions of the act, which refer to this tax, only provide a mode of collecting it. The officers and agents of the railroad companies and the proprietors of the stage-coaches are made responsible for this, and so become the collectors of the tax.
The nature of the transaction and the ordinary course of business show that this must be so."

Having determined that the statute of Nevada imposes a tax upon the passenger for the privilege of leasing through it the ordinary mode of passenger travel, we proceed to inquire if it is for that reason in conflict with the Constitution of the United States.

In the argument of the counsel for the defendant in error, and in the opinion of the supreme court of Nevada, which is found in the record, it is assumed that this question must be decided by an exclusive reference to two provisions of the Constitution, namely: that which forbids any State, without the consent of Congress, to lay any import duties on imports or exports, and that which confines Congress to the exercise of those powers which are granted to Congress by the Constitution, and the provision of that instrument that the migration or importation of such persons as any of the States then existing should think proper to admit should not be prohibited prior to the year 1808, but that a tax might be imposed on such importation was relied on as showing that the word import applied to persons as well as merchandise. It was answered that this latter clause had exclusive reference to slaves, who were property as well as persons, and therefore proved nothing. While some of the judges who concurred in holding those laws to be unconstitutional gave as one of their reasons that they were taxes on imports, it is evident that this view did not receive the assent of a majority of the court. The application of this provision of the Constitution to the proposition which we have stated in regard to the commerce clause of the Constitution, necessarily excludes the exercise by the States of any of the power thus granted, is one which has been much considered in this court, and the earlier discussions left the question in much doubt. As late as the January term, 1848, the opinion of the judges in the Passenger Case shows that the question was considered to be one of much importance in those cases, and was even then unsettled, though previous decisions of the court were relied on by the judges themselves as deciding it in different ways. It was certainly, so far as those cases affected it, left an open question.

In the case of Cooley vs. Board of Wardens, 12 Howard, 259, four years later, the same question came directly before the court in reference to the local laws of the port of Philadelphia concerning pilots. It was claimed that they constituted a regulation of commerce, and were therefore void. The court held that they did come within the meaning of the term 'to regulate commerce,' but that until Congress made regulations concerning pilots the States were competent to do so.

Perhaps no more satisfactory solution has ever been given of this vexed question than the one furnished by the court in that case. After showing that there are some powers granted to Congress which are exclusive of similar powers in the States, because they are declared to be so, and that other powers are virtually so to their very nature, the court proceeds to say, that the authority to regulate commerce with foreign nations and among the several States, as granted to Congress, is the power to regulate commerce with foreign nations and among the several States.

The question as thus narrowed is not free from difficulties. Can a citizen of the United States living in one part of the Union be considered as another citizen of another State? It was insisted in the Passenger Cases, to which we have already referred, that foreigners coming to the country were imports within the meaning of the Constitution, and the provision of that instrument that the migration or importation of such persons as any of the States then existing should think proper to admit should not be prohibited prior to the year 1808, but that a tax might be imposed on such importation was relied on as showing that the word import applied to persons as well as merchandise. It was answered that this latter clause had exclusive reference to slaves, who were property as well as persons, and therefore proved nothing. While some of the judges who concurred in holding those laws to be unconstitutional gave as one of their reasons that they were taxes on imports, it is evident that this view did not receive the assent of a majority of the court. The application of this provision of the Constitution to the proposition which we have stated in regard to the commerce clause of the Constitution, necessarily excludes the exercise by the States of any of the power thus granted, is one which has been much considered in this court, and the earlier discussions left the question in much doubt. As late as the January term, 1848, the opinion of the judges in the Passenger Case shows that the question was considered to be one of much importance in those cases, and was even then unsettled, though previous decisions of the court were relied on by the judges themselves as deciding it in different ways. It was certainly, so far as those cases affected it, left an open question.

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It may be that under the power to regulate commerce among the States, Congress has authority to pass laws, the operation of which would be inconsistent with the tax imposed by the State of Nevada, but we know of no such statute now in existence. Inasmuch, therefore, as the tax does not itself constitute any regulation of commerce, a national character, or which has a uniform operation over the whole country, it is not easy to maintain, in view of the principles on which those cases were decided, that it violates the clause of the Federal Constitution which we have had under review.

But we do not concede that the question before us is to be determined by the two clauses of the Constitution which we have been examining. The people of these United States constitute one nation. They have a Government in which all of them are deeply interested. This Government has necessarily a capital established by law, where its principal operations are conducted. Here sits its legislature, composed of senators and representatives from the States, and from the people of the States. Here resides the President, directing through thousands of agents the execution of the laws over all this vast country. Here is the seat of the supreme judicial power of the nation, to which all its citizens have a right to resort to claim justice at its hands. Here are the great executive departments, administering
the offices of the mails, of the public lands, of the collection of the public revenues, and of our foreign relations. These are all established and conducted under the admitted powers of the Federal Government. That Government has a right to call this point any or all of its citizens to aid in its service, as members of the Congress, of the courts, of the executive departments, and to fill all its other offices; and this right cannot be made to depend upon the pleasure of a State, over whose territory they must pass to reach the point where these services must be rendered. The Government also has its offices of secondary importance in all other parts of the country. On the seacoasts and on the rivers it has its ports of entry. In the interior it has its land offices, its revenue offices, and its sub-treasuries. In all these it demands the services of its citizens, to be raised and transport troops through and over the territory of any State of the Union. If this right is dependent in any sense, however limited, upon the pleasure of a State, the Government itself may be overthrown by an obstruction to its exercise, or by those points from all quarters of the nation, and no power can exist in a State to obstruct this right that would not enable it to defeat the purposes for which the Government was established.

The federal power has a right to declare and prosecute wars, and, as a necessary incident, to raise and transport troops through and over the territory of any State of the Union. If this right is dependent in any sense, however limited, upon the pleasure of a State, the Government itself may be overthrown by an obstruction to its exercise, or by those points from all quarters of the nation, and no power can exist in a State to obstruct this right that would not enable it to defeat the purposes for which the Government was established.

The view here advanced are neither novel nor unsupported by authority. The question of its surrender cannot arise. If the tax levied by Nevada on railroad passengers had been the law of Tennessee, enlarged to meet the wishes of her people, the treasury of the United States could not have paid the tax necessary to enable its armies to pass through her territory.

But if the Government has these rights on its own account, the citizen also has correlative rights. He has the right to come to the seat of Government to assert any claim he may have upon that Government, or to transact any business he may have with it; to seek its protection, to share its offices, to engage in administering its functions. He has a right to free access to its sea-ports, through which all the operations of foreign trade and commerce are conducted, to the sub-treasuries, the land offices, the revenue offices, and the courts of justice in the several States, and this right is in its nature independent of the will of any State over whose soil he must pass in the exercise of it.

The views here advanced are neither novel nor unsupported by authority. The question of the taxing power of the States, as its exercise has affected the functions of the Federal Government, has been repeatedly considered by this court, and the right of the States in this mode to impede or embarrass the constitutional operations of that Government, or the rights which its citizens hold under it, has been uniformly denied. The leading case of this class is that of McCulloch vs Maryland, (4 Wheaton, 316.) The case is one every way important, and is familiar to the statesman and the constitutional lawyer. The Congress, for the purpose of aiding the fiscal operations of the Government, had chartered the Bank of the United States, with authority to establish branches in the different States, and to issue notes for circulation. The legislature of Maryland had levied a tax upon these circulating notes, which the bank refused to pay, on the ground that the statute was void by reason of its antagonism to the Federal Constitution. No particular provision of the Constitution was pointed to as prohibiting the taxation by the State. Indeed, the authority of Congress to create the bank, which was strenuously denied, and the discussion of which constituted an important element in the opinion of the court, was not based by that opinion on any express grant of power, but was claimed to be necessary and proper to enable the Government to carry out its authority to raise a revenue, and to transfer and disburse the same. It was argued also that the tax on the circulation operated so remotely, if at all, on the only functions of the bank in which the Government was interested. But the court, by a unanimous judgment, held the law of Maryland to be unconstitutional.

"It is not possible to condense the conclusive argument of Chief Justice Marshall in that case, and it is too familiar to justify its reproduction here; but an extract or two, in which the results of his reasoning are stated, will serve to show its applicability to the case before us. "That the power of taxing the bank by the States," he says, "may be exercised so as to destroy it is too obvious to be denied. But taxation is said to be an absolute power, which acknowledges no other limits than those prescribed by the Constitution, and, like sovereign power of any description, is trusted to the discretion of those who use it. But the very terms of this argument admit that the sovereignty of the State in the article of taxation is subordinate to and may be controlled by the Constitution of the United States." Again he says: "We find then on just theory a total failure of the original right to tax the means employed by the Government of the United States." Again he says: "We find then on just theory a total failure of the original right to tax the means employed by the Government in the execution of its powers. The right never existed, and the question of its surrender cannot arise.

"That the power to tax involves the power to destroy: that the power to destroy may defeat and render useless the power to create; that there is a plain repugnance in conferring on one government a power to control the constitutional measures of another, which other, with respect to those very means, is declared to be supreme over which exerts the control are propositions not to be denied. If the States may tax one instrument employed by the Government in the execution of its powers, they may tax any and every other instrument. They may tax the mail; they may tax the mint; they may tax patent rights; they may tax paper of the custom-house; they may tax judicial process; they may tax all the means employed by the Government to an excess which would defeat all the ends of Government. This was not intended by the American people. They did not design to make their Government dependent on the States."

It will be observed that it was not the extent of the tax in that case which was complained of, but the right to levy any tax of that char-
actor. So, in the case before us, it may be said that a tax of one dollar for passing through the State of Nevada, by stage coach or by railroad, cannot possibly affect any function of the Government, or deprive a citizen of any valuable right. But if the State can tax a railroad passenger one dollar, it can tax him one thousand dollars. If one State can do this so can every other State. And thus one or more States, covering the only practicable routes of travel from the east to the west, or from the north to the south, may totally impede all transportation of passengers from one part of the country to the other.

A case of another character, in which the taxing power, as exercise by a State, was held void, because repugnant to the Federal Constitution, is that of Brown vs. The State of Maryland, (12 Wheaton 412.)

The State of Maryland required all importers of foreign merchandise who sold the same by wholesale, by bale or by package, to take out a license, and this act was claimed to be unconstitutional. The court held it to be so on three different grounds: first, that it was a duty on imports; second, that it was a regulation of commerce; and, third, that the importer who had paid the duties imposed by the United States had acquired a right to sell his goods in the same original packages in which they were imported. To say nothing of the first and second grounds, we have in the third a tax of a State declared to be void because interfered with the exercise of a right derived by the importer from the laws of the United States. If the right of passing through a State by a citizen of the United States is one guarantied him by the Constitution, it must be as sacred from State taxation as the right derived by the importer from the payment of duties to sell the goods on which the duties were paid.

In the case of Weston vs. The City of Charleston, (2 Peters, 447.) we have a case of State taxation of still another class, held to be void as an interference with the rights of the Federal Government. The tax in that instance was imposed on bonds or stocks of the United States, in common with all other securities of the same character. It was held by the court that the free and successful operation of the Government required it at times to borrow money; that to borrow money it was necessary to issue this class of national securities, and that if the States could tax these securities, they might so tax them as to seriously impair or totally destroy the power of the Government to borrow. This case, itself based on the doctrines advanced by the court in McCulloch vs. The State of Maryland, has been followed in all the recent cases involving State taxation of Government bonds, from that of The People of New York vs. Tax Commissioners, (2 Black, 639.) to the decisions of the court at this term.

In all these cases the opponents of the taxes levied by the States were able to place their opposition on no express provision of the Constitution, except in that of Brown vs. Maryland. But in all the other cases, and in that case also, the court distinctly placed the invalidity of the State taxes on the ground that they interfered with an authority of the Federal Government, which was itself only to be sustained as necessary and proper to the exercise of some other power expressly granted.

In the Passenger Cases, to which reference has already been made, Justice Grier, with whom Justice Catron concurred, makes this one of the four propositions on which they held the tax void in those cases, Judge Wayne eulogizes his consent to Judge Grier's views; and perhaps this ground received the concurrence of more of the members of the court who constituted the majority than any other.

But the principles here laid down may be found more clearly stated in the dissenting opinion of the Chief Justice in those cases, and with more direct pertinency to the case now before us, than anywhere else.

After expressing his views fully in favor of the validity of the tax, which he said had exclusive reference to foreigners, so far as those cases were concerned, he proceeds to say, for the purpose of preventing misapprehension, that so far as the tax affected American citizens it could not in his opinion be maintained. He then adds: "Living as we do under a common government, charged with the great concerns of the whole Union, every citizen of the United States, from the most remote States or Territories, is entitled to free access, not only to the principal departments established at Washington, but also to its judicial tribunals and public offices in every State in the Union. * * * For all the great purposes for which the Federal Government was formed we are one people, with one common country. We are all citizens of the United States, and as members of the same community must have the right to pass and repose through every part of it without interruption as freely as in our own States. And a tax imposed by a State for entering its territories or harbors is inconsistent with the rights which belong to citizens of other States as members of the Union, and with the objects which that Union was intended to attain. Such a power in the States could produce nothing but discord and mutual irritation, and they very clearly do not possess it."

Although these remarks are found in a dissenting opinion, they do not relate to the matter on which the dissent was founded. They accord with the inferences which we have already drawn from the Constitution itself, and from the decisions of this court in exposition of that instrument.

These principles, as we have already stated them in this opinion, must govern the present case.

The judgment of the Supreme Court of the State of Nevada is therefore reversed, and the case remanded to that court, with directions to discharge the plaintiff in error from custody.

Mr. Justice Clifford: I agree that the State law in question is unconstitutional and void, but I am not able to concur in the principal reasons assigned in the opinion of the court in support of that conclusion.

On the contrary, I hold that the act of the State legislature is inconsistent with the power conferred upon Congress to regulate commerce among the several States, and I think the jud-
ment of the court should have been placed exclusively upon that ground.

Strong doubts are entertained by me whether Congress possesses the power to levy any such tax; but whether so or not, I am clear that the State legislature cannot impose any such burden upon commerce among the several States. Such commerce is secured against such legislation in the States by the Constitution, irrespective of any congressional action.

The Chief Justice also dissents, and concurs in the views I have expressed.

**On State Taxation of United States Certificates of Indebtedness.**

**DECEMBER TERM, 1863.**

The People of the State of New York, ex rel.,
The Bank of New York National Banking Association, plaintiffs in error,
No. 244.
vs.
Richard B. Connolly, comptroller, and John T. Hoffman, mayor, &c.,
The People of the State of New York, ex rel.,
The National Broadway Bank, plaintiffs in error,
No. 245.
vs.
John T. Hoffman, mayor, and Richard B. Connolly, comptroller, &c.,
and
The People of the State of New York, ex rel.,
The National Bank of the Republic of the city of New York, plaintiffs in error,
No. 246.
vs.

Mr. Chief Justice Chase delivered the opinion of the court in these cases.

These three cases present, under somewhat different forms, the same question, namely: Are the obligations of the United States, known as certificates of indebtedness, liable to be taxed by State legislation?

These three cases are argued and will be considered together.

In 1863 and in 1864 the proper officers of the State, acting under the laws of New York, assessed certain taxes upon the capital stock of the several banking associations in that State. Some of these banking associations resisted the collection of the tax on the ground that, though nominally imposed upon their respective capitals, it was in fact imposed upon the bonds and obligations of the United States, in which a large proportion of these capitals was invested, and which under the Constitution and laws of the United States, were exempt from State taxation.

This question was brought before the court of appeals, which sustained the assessments and disallowed the claim of the banking associations.

From this decision an appeal was taken to this court, upon the hearing of which, at the December term, 1864, it was adjudged that the taxes imposed upon the capitals of the associations were a tax upon the national bonds and obligations in which they were invested, and therefore, so far, contrary to the Constitution of the United States.*

A mandate in conformity with this decision was sent to the court of appeals of New York, which court thereupon reversed its judgment, and entered a judgment agreeably to the mandate.

* See Wall. 310.

Aftewards, on the 30th of April, 1866, the legislature of New York provided by law for refunding to the banking associations and other corporations in like condition the taxes of 1863 and 1864 collected upon that part of their capitals invested in securities of the United States exempt by law from taxation. The board of supervisors of the county of New York was charged with the duty of auditing and allowing, with the approval of the mayor of the city and the corporation counsel, the amount collected from each corporation for taxes on the exempt portion of its capital, together with costs, damages, and interest. Upon such auditing and allowance the sums awarded were to be paid to the corporations severally entitled by the issue to each of New York county seven per cent. bonds of equal amounts. These bonds were to be signed by the comptroller of the city of New York, countersigned by the mayor, and sealed with the seal of the board of supervisors, and attested by the clerk of the board.

Under this act the board of supervisors audited and allowed to the several institutions represented in the three cases under consideration their several claims for taxes collected upon the national securities held by them, including in this allowance the taxes paid on certificates of indebtedness, which the corporations claimed to be securities of the United States exempt from taxation.

But the comptroller, mayor, and clerk refused to sign, countersign, seal, and attest the requisite amount of bonds for payment, insisting that certificates of indebtedness were not exempt from taxation.

A writ of mandamus was thereupon sued out of the supreme court of New York for the purpose of compelling these officers to perform their alleged duties in this respect. An answer was filed, and the court, by its judgment, sustained the refusal. An appeal was taken to the court of appeals of New York, by which the judgment of the supreme court was affirmed. The writ was vacated by error, under the 25th section of the judiciary act, and these judgments here for revision.

The first question to be considered is one of jurisdiction. It is insisted in behalf of the defendants in error that the judgment of the New York court of appeals is not subject to review in this court.

But it is not plain that, under the act of the legislature of New York, the banking associations were entitled to reimbursement by bonds of the taxes illegally collected from them in 1863 and 1864?

No objection was made in the State court to the process by which the associations sought to enforce the issue of the bonds to which they asserted their right. Mandamus to the officers charged with the execution of the State law seems to have been regarded on all hands as the appropriate remedy.

But it was objected on the part of the officers that the particular description of obligations, of the tax on which the associations claimed reimbursement, were not exempt from taxation. The associations, on the other hand, insisted that these obligations were exempt under the Constitution and laws of the United States.
were so exempt, the associations were entitled to the relief which they sought. The judgment of the court of appeals denied the relief, upon the ground that certificates of indebtedness were not entitled to exemption. Is it not clear that in the case before the State court a right, privilege, or immunity was claimed under the Constitution or a statute of the United States, and that the decision was against the right, privilege, or immunity claimed, and, therefore, that the jurisdiction of this court to review that decision is within the express words of the amendatory act of February 5, 1867? There can be but one answer to this question. We can find no ground for doubt on the point of jurisdiction.

The general question upon the merits is this: Were the obligations of the United States known as certificates of indebtedness liable to State taxation? If this question can be affirmatively answered, the judgments of the court of appeals must be affirmed; if not, they must be reversed.

Evidence of the indebtedness of the United States, held by individuals or corporations, and sometimes called stock or stocks, but recently better known as bonds or obligations, have uniformly been held by this court not to be liable to taxation under State legislation.

The authority to borrow money on the credit of the United States is, in the enumeration of the powers expressly granted by the Constitution, second in place, and only second in importance, as certificates of indebtedness liable to State taxation.

The general question, therefore, is: Are certificates of indebtedness liable to taxation under State legislation. The certificates of indebtedness in the case before the State court are those of the Bank of Commerce vs. The City of New York, in 1862, and the Bank Tax Case, in 1895, in both of which the power was denied.

An attempt was made at the bar to establish a distinction between the bonds of the Government expressed for loans of money and the certificates of indebtedness for which the exemption was claimed. The argument was ingenious, but failed to convince us that such a distinction can be maintained. It may be admitted that these certificates were issued in payment of supplies and in satisfaction of demands of public creditors. But we fail to perceive either that there is a solid distinction between certificates of indebtedness issued for money borrowed and given to creditors and certificates of indebtedness issued directly to creditors in payment of their demands; or that such certificates, issued as a means of executing constitutional powers of the Government, other than of borrowing money, are not as much beyond control and limitation by the States through taxation as bonds or other obligations issued for loans of money.

The principle of exemption is, that the States cannot control the national Government within the sphere of its constitutional power, for there it is supreme; and cannot tax its obligations for payment of money issued for purposes within that range of powers, because such taxation necessarily implies the assertion of the right to exercise such control. The certificates of indebtedness in the case before us are completely within the protection of this principle. For the public history of the country and the acts of Congress show that they were issued to creditors for supplies necessary to the Government in carrying on the recent war for the integrity of the Union and the preservation of our republican institutions. They were received instead of money at a time when full money payment for supplies was impossible, and, according to the principles of the cases to which we have referred, are as much beyond the taxing power as....
power of the States as the operations themselves in furtherance of which they were issued. It results that the several judgments of the court of appeals must be reversed.

On State Taxation of United States Notes.

No. 247.—December Term, 1868.

The People of the State of New York; ex rel. the Bank of New York, plaintiffs in error, v. The Board of Supervisors of the County of New York.

Mr. Chief Justice Chase delivered the opinion of the court.

This case differs from those just disposed of in two particulars: (1) That the board of supervisors, which in the other cases allowed and audited the claims of the banking associations, refused to allow the claim made in this case; and (2) that the exemption from State taxation claimed in the necessary to United States notes while in the other cases it was of certificates of indebtedness.

The mandamus in the State court was therefore directed, in the case now before us, to the board of supervisors, instead of the officers authorized to issue bonds, as in the cases already decided. The judgment of the court of appeals sustained the action of the board, and the case is brought here by writ of error to that court.

The general question requiring consideration is, whether United States notes come under another rule in respect of taxation than that which applies to certificates of indebtedness.

The issues of United States notes were authorized by three successive acts. The first was the act of February 25, 1862, the second the act of July 11, 1862, and the third that of March 3, 1863.

Before either of these acts received the sanction of Congress the Secretary of the Treasury had been authorized by the act of July 17, 1861, to issue treasury notes not bearing interest, but payable on demand by the assistant treasurers at New York, Philadelphia, or Boston; and about three weeks later these notes, by the act of August 5, 1861, had been made receivable generally for public dues. The amount of notes to be issued of this description was originally limited to fifty millions, but was afterwards, by the act of February 12, 1862, increased to sixty millions.

These notes, made payable on demand and receivable for all public dues, including duties on imports always payable in coin, were practically equivalent to coin; and all public distributions until after the date of the act last mentioned, were made in coin or these notes.

In December, 1861, the State banks (and no others then existed) suspended payment in coin, and it is by law for the use of State bank notes, or to authorize the issue of notes for circulation under the authority of the national Government. The latter alternative was preferred, and in the necessity thus recognized originated the legislation providing at first for the emission of United States notes, and at a later period for the issue of the national bank currency.

Under the exigencies of the times it seems to have thought inexpedient to attempt any provision for the redemption of the United States notes in coin. The law, therefore, directed that they should be made payable to bearer at the treasury of the United States, but did not provide for payment on demand. The period of payment was left to be determined by the public exigencies. In the meantime the notes were receivable in payment of all loans, and were, until after the close of our civil war, always practically convertible into bonds of the funded debt, bearing not less than five per cent. interest, payable in coin.

The act of February 25, 1862, provided for the issue of these notes to the amount of $150,000,000. The act of July 11, 1862, added another $150,000,000 to the circulation, reserving, however, $60,000,000 for the redemption of temporary loan, to be issued and used only when necessary for that purpose. Under the act of March 3, 1863, another $150,000,000 was authorized, making the whole amount authorized $450,000,000, and contemplating a permanent circulation, until resumption of payment in coin, of $400,000,000.

It is unnecessary here to go further into the history of these notes, or to examine their relation to the national bank currency. That history belongs to another place, and the quality of these notes, as legal tenders, belongs to another discussion. It has been thought proper only to advert to the legislation by which these notes were authorized in order that their true character may be clearly perceived.

That these notes were issued under the authority of the United States, and as a means to ends entirely within the constitutional power of the Government, was not seriously questioned upon the argument.

But it was insisted that they were issued as money; that their controlling quality was that of money; and that therefore they were subject to taxation in the same manner and to the same extent as coin issued under like authority.

And there is certainly much force in the argument. It is clear that these notes were intended to circulate as money, and, with the national bank notes, to constitute the credit currency of the country.

Nor is it easy to see that taxation of these notes, used as money and held by individual owners, can control or embarrass the power of the Government in issuing them for circulation more than like taxation embarrasses its power in coining and issuing gold and silver money for circulation.

Apart from the quality of legal tender impressed upon them by acts of Congress, of which we now say nothing, their circulation as currency depends on the extent to which they are received in payment, on the quantity in circulation, and on the credit given to the promises they bear. In these respects they resemble the bank notes formerly issued as currency.

But, on the other hand, it is equally clear that these notes are obligations of the United States.
Their name imports obligation. Every one of them expresses upon its face an engagement of the nation to pay in a certain sum. The dollar note is an engagement to pay a dollar, and the dollar intended is the coined dollar of the United States—a certain quantity in weight and fineness of gold or silver, authenticated as such by the stamp of the Government. No other dollars had before been recognized by the legislation of the national Government as lawful money.

Would, then, their usefulness and value as means to the exercise of the functions of government be injuriously affected by State taxation? It cannot be said, as we have already intimated, that the same inconveniences as would arise from the taxation of bonds and other interest-bearing obligations of the Government would attend the taxation of notes issued for circulation, and the dollar intended is the coined dollar of the United States held by individuals, associations, or corporations, within the United States, shall be exempt from taxation by or under State authority.

We have already said that these notes are obligations. They bind the national faith. They are, therefore, strictly securities. They secure the payment stipulated to the holders by the pledge of the national faith, the only ultimate security of all national obligations, whatever form they may assume. And this provision is re-enacted in application to the second issue of United States notes by the act of July 11, 1863. It provides for the last issue of these notes, omits in its exemption clause the word "stocks," and substitutes for "other securities" the words, "Treasury notes or United States notes issued under the provisions of this act." It was insisted at the bar that a measure of exemption in respect to the notes issued under this different form, as compared with the former acts in respect to the notes authorized by them, was intended. But we cannot yield our assent to this view. The rule established in the last act is in no respect inconsistent with that previously established. It must be regarded, therefore, as explanatory. It makes specific what was before expressed in general terms.

Our conclusion is, that United States notes are exempt, and, as the time the New York statutes were enacted, were exempt from taxation by or under State authority. The judgment of the court of appeals must therefore be reversed.

Clause making United States Notes a Legal Tender for Debts has no reference to State Taxes.

No. 5—DECEMBER TERM, 1868.

The County of Lane, plaintiff in error, in error to the supreme court of the State of Oregon.

Mr. Chief Justice Chase delivered the opinion of the court.

The State of Oregon, in April, 1865, filed a complaint against the county of Lane, in the circuit court of the State for that county, to recover $5,460 96 in gold and silver coin, which sum was alleged to have become due as State revenue from the county to the State on the 1st Monday of February, 1864.

To this complaint an answer was put in by the county, alleging a tender of the amount claimed by the State, made on the 23d day of January, 1864, to the State treasurer, at his office, in United States notes, and averring that the lawful money so tendered and offered was, in truth and fact, part of the first moneys collected and paid into the county treasury after the assessment of taxes for the year 1862.

To this answer there was a demurrer, which was sustained by the circuit court, and judgment was given that the plaintiff recover of the defendant the sum claimed in gold and silver coin, with costs of suit, and this judgment was affirmed upon writ of error by the supreme court of the State.

The petitioner brings here by writ of error to that court; and two propositions have been pressed upon our attention, ably and earnestly, in behalf of the plaintiff in error.

The first is, that the laws of Oregon did not require the collection in coin of the taxes in question, and that the treasurer of the county could not be required to pay to the treasurer of the State any other money than that in which the taxes were actually collected.

The second is, that the tender of the amount of taxes made to the treasurer of the State by the treasurer of the county in United States notes, was warranted by the acts of Congress authorizing the issue of these notes, and that the law of the State, if it required collection and payment in coin, was repugnant to these acts, and therefore void.

The first of these propositions will be first considered.

The answer avers substantially that the money tendered was part of the first moneys collected in Lane county after the assessment of 1863, and the demurrer admits the truth of the answer.

The fact therefore may be taken as established, that the taxes for that year in Lane county were collected in United States notes.

But was this in conformity with the laws of Oregon? In this court the construction given by the State courts to the laws of a State relating to local affairs is uniformly received as the true construction, and the question first stated must have
been passed upon, in reaching a conclusion upon the demurrer, both by the circuit court for the county and by the supreme court of the State. Both courts must have held that the statutes of Oregon, either directly or by clear implication, required the collection of taxes in gold and silver coin. Nor do we perceive anything strained or unreasonable in this construction. The laws of Oregon, as quoted in the brief for the State, provided that "the several county treasurers shall pay over to the State treasurer the full amount of the State and school taxes in gold and silver coin;" 8 and that "the sheriff shall pay over to the State treasurer the State tax in gold and silver coin." 9

It is certainly a legitimate inference that these taxes were required to be collected in coin. Nothing short of express words except duties on imports, and of all claims and demands against the United States of every kind in payment of all taxes, internal duties, excises, duties in another.

We proceed then to inquire whether, upon a sound construction of the acts, taxes imposed by a State government upon the people of a State are debts within their true meaning.

If, in our judgment, however, this point were otherwise, we should still be bound by the soundest principles of judicial administration and by a long train of decisions in this court to regard the judgment of the supreme court of Oregon, so far as it depends on the right construction of the statutes of that State, as free from error.

The second proposition remains to be examined, and this inquiry brings us to the consideration of the acts of Congress authorizing the issue of the notes in which the tender was made.

The first of these was the act of February 23, 1862, which authorized the Secretary of the Treasury to issue, on the credit of the United States, $150,000,000 in United States notes, and provided that these notes "shall be receivable in payment of all taxes, internal duties, excises, debts, and demands due to the United States, except duties on imports, and of all claims and demands against the United States of every kind whatever, except interest on bonds and notes, which shall be paid in coin; and shall also be lawful money and legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid." 10

The act contains a provision nearly in the same words with that just quoted, and under these two acts two-thirds of the entire issue was authorized. It is unnecessary, therefore, to refer to the third act, by which the notes to be issued under it are not in terms made receivable and payable, but are simply declared to be lawful money and a legal tender.

In the first act no emission was authorized of any notes under five dollars, nor in the other two, any under one dollar. The notes authorized by different statutes, for parts of a dollar, were never declared to be lawful money or a legal tender. 11 It is obvious, therefore, that a legal tender in United States notes of the precise amount of taxes admitted to be due to the State could not be made. Coin was then and is now the only legal tender for debts less than one dollar.

In the view which we take of this case this is not important. It is mentioned only to show that the general words "all debts" were not intended to be taken in a sense absolutely literal.

Nor do we perceive anything strained or unreasonable in this construction. The laws of Oregon, as quoted in the brief for the State, provided that "the several county treasurers shall pay over to the State treasurer the full amount of the State and school taxes in gold and silver coin;" 8 and that "the sheriff shall pay over to the State treasurer the State tax in gold and silver coin." 9

In examining this question it will be proper to give some attention to the constitution of the States and to their relations as United States.

The people of the United States constitute one nation, under one government; and this government, within the scope of the powers with which it is invested, is supreme. On the other hand, the people of each State compose a State, having its own government, and endowed with all the functions essential to separate and independent existence. The States disunited might continue to exist. Without the States in union there could be no such political body as the United States.

Both the States and the United States existed before the Constitution. The people, through that instrument, established a more perfect union, by substituting a national Government, acting, with ample power, directly upon the citizens, instead of the confederate government which acted with powers, greatly restricted, only upon the States. But in many articles of the Constitution the necessary existence of the States, and, within their proper spheres, the independent authority of the States, is distinctly recognized. To them nearly the whole charge of interior regulation is committed or left; to them and to the people all powers not expressly delegated to the national Government are reserved. The general condition was well stated by Mr. Madison, in the Federalists thus: "The federal and State governments are in fact but different agents and trustees of the people, constituted with different powers and designated for different purposes."

Now, to the existence of the States, themselves necessary to the existence of the United States, the power of taxation is indispensable. It is an essential function of government.

It was exercised by the colonies; and when the colonies became States, both before and after the formation of the confederation, it was exercised by the new governments.

Under the articles of confederation the Government of the United States was limited in the exercise of this power to requisitions upon the States, while the whole power of direct and indirect taxation of persons and property, whether by taxes on polls, or duties on imports, or duties on internal production, manufacture, or use, was acknowledged to belong exclusively to the States, without any other limitation than that of non-interference with certain treaties made by Congress.

The Constitution, it is true, greatly changed the condition of things. It gave the power to tax, both directly and indirectly, to the national Government, and, subject to the one prohibition of any tax upon exports and to the conditions of uniformity in respect to direct and of propor-

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8 Statutes of Oregon, 439, 432. 9 Ibid., 441, 466. 11 Ibid., 592; Ibid., 711.
tion in respect to direct taxes, the power was given without any express reservation.

On the other hand, no power to tax exports, or imports except for a single purpose and to an insignificant extent, or to lay any duty on tonnage, was permitted to the States. In respect, however, to property, business, and persons within their respective limits, their power of taxation remained and remains entire. It is indeed a concurrent power, and in the case of a tax on the same subject by both States, the claim of the United States, as the supreme authority, must be preferred; but with this qualification it is absolute.

The extent to which it shall be exercised, the subjects upon which it shall be exercised, and the mode in which it shall be exercised are all equally within the discretion of the legislatures to which the States commit the exercise of the power. That discretion is restrained only by the will of the people expressed in the State constitutions or through elections, and by the condition that it must not be so used as to burden or embarrass the operations of the national Government.

There is nothing in the Constitution which contemplates or authorizes any direct infringement of this power by national legislation. To the extent just indicated it is as complete in the States as the like power, within the limits of the Constitution, is complete in Congress.

If, therefore, the condition of any State, in the judgment of its legislature, requires the collection of taxes in kind, that is to say, by the delivery to the proper officers of a certain proportion of produce, or gold and silver bullion, or in gold and silver coin, it is not easy to see upon what principle the national legislature can interfere with the exercise, to that end, of this power, original in the States, and never yet surrendered.

If this be so, it is certainly a reasonable conclusion that Congress did not intend, by the general terms of the currency acts, to restrain the exercise of this power in the manner shown by the statutes of Oregon.

Other considerations strengthen this conclusion. It cannot escape observation that the provision intended to give currency to the United States notes in the two acts of 1862 consists of two quite distinguishable clauses. The first of those clauses makes those notes receivable in payment of all due to the United States, and payable in satisfaction of all demands against the United States, with specified exceptions; the second makes them lawful money, and a legal tender in payment of debts, public and private, within the United States, with the same exceptions.

It seems quite probable that the first clause only was in the original bill, and that the second was afterwards introduced during its progress into an act.

However this may be, the fact that both clauses were made part of the act of February, and were retained in the act of July, 1862, indicates clearly enough the intention of Congress that both shall be construed together. Now, in the first clause, taxes are plainly distinguished, in enumeration, from debts; and it is not an unreasonable inference that the word debts in the other clause was not intended to include taxes.

It must be observed that the first clause, which may be called the receivability and payability clause, imposes no restriction whatever upon the States in the collection of taxes. It makes the notes receivable for national taxes, but does not make them receivable for State taxes. On the contrary, the express reference to receivability by the national Government, and the omission of all reference to receivability by the State governments, excludes the hypothesis of an intention on the part of Congress to compel the States to receive them as revenue.

And it must also be observed that any construction of the second, or, as it may well enough be called, legal-tender clause, that includes duties for taxes under the words debts, public and private, must deprive the first clause of all effect whatever. For if those words, rightly apprehended, include State taxes, they certainly include national taxes also; and if they include national taxes, the clause making them receivable for such taxes was wholly unnecessary and superfluous.

It is also proper to be observed that a technical construction of the words in question might defeat the main purpose of the act, which doubtless was to provide a currency in which the receipts and payments incident to the exigencies of the then existing civil war might be made, and collect taxes, says of the theory which would limit the power to the object of paying the debts, that, thus limited, it would be only a power to provide for the payment of debts then existing.* And certainly, if a narrow and limited interpretation would thus restrict the word debts in the Constitution, the same sort of interpretation would in like manner restrict the same word in the act.

Such an interpretation needs only to be mentioned to be rejected. We refer to it only to show that a right construction must be sought through larger and less technical views.

We may, then, safely decline either to limit the word debts to existing debts, or to extend its meaning so as to embrace all debts of whatever origin and description.

What then is its true sense? The most obvious, and, as it seems to us, the most rational answer to this question is, that Congress must have had in contemplation debts originating in contract or demands carried into judgment, and only debts of this character. This is the commonest and most natural use of the word. Some strain is felt upon the understanding when it is made to extend it so as to include taxes imposed by legislative authority, and there should be no such strain in the interpretation of a law like this.

We are the more ready to adopt this view, because the greatest of English elementary writers upon law, when treating of debts in their various descriptions, gives no hint that

*1 Story on Cons., 639, 921.
taxes come within either.* while American State courts of the highest authority have refused to treat liabilities for taxes as debts, in the ordinary sense of that word, for which actions of debt may be maintained.

The first of these cases was that of Pierce vs. The City of Boston,† 1842, in which the defendant attempted to set off against a demand of the plaintiff certain taxes due to the city. The statute allowed mutual debts to be set off, but the court disallowed the right to set off taxes. This case went, indeed, upon the construction of the statute of Massachusetts, and did not turn on the precise point before us; but the language of the court shows that taxes were not regarded as debts within the common understanding of the word.

The second case was that of Shaw vs. Fickett,‡ in which the supreme court of Vermont said: "The assessment of taxes does not create a debt that can be enforced by suit, or upon which a promise to pay interest can be implied. It is proceeding in invitum."

The next case was that of the City of Camden vs. Allen § 1857. That was an action of debt brought to recover a tax by the municipality to which it was due. The language of the supreme court of New Jersey was still more explicit: "A tax, in its essential characteristics," said the court, "is not a debt, nor in the nature of a debt. A tax is an impost levied by authority of government upon its citizens or subjects for the support of the State. It is not founded on contract or agreement. It operates in invitum. A debt is a sum of money due by certain and express agreement. It originates in and is founded upon contracts express or implied."

These decisions were all made before the acts of 1862 were passed, and they may have had some influence upon the choice of the words used. Be this as it may, we all think that the interpretation which they sanction is well warranted.

We cannot attribute to the legislature an intent to include taxes under the term debts without something more than appears in the acts to show that intention.

The supreme court of California, in 1862, had the construction of these acts under consideration in the case of Perry vs. Washburn.¶ The decisions which we have cited were referred to by Chief Justice Field, now holding a seat on this bench, and the very question we are now considering: "What did Congress intend by the act?" was answered in these words: "Upon this question we are clear, that it only intended by the terms debts, public and private, such obligations for the payment of money as are founded upon contract."

In whatever light, therefore, we consider this question, whether in the light of the conflict between the legislation of Congress and the taxing power of the States to which the interpretation insisted on in behalf of the county of Lane would give occasion, or in the light of the language of the acts themselves, or in the light of the decisions to which we have referred, we find ourselves brought to the same conclusion, that the clause making the United States notes a legal tender for debts has no reference to taxes imposed by State authority, but relates only to debts in the ordinary sense of the word, arising out of simple contracts or contracts by specialty, which include judgments and recognizances.*

Whether the word debts, as used in the act, includes obligations expressly made payable, or adjudged to be paid in coin, has been argued in another case. We express at present no opinion on that question.

The judgment of the supreme court of Oregon must be affirmed.

Express Contracts to Pay Coined Dollars can only be satisfied by the Payment of Coined Dollars.

No. 89.—DECEMBER TERM, 1868.

Frederick Bronson, executor of the last will and testament of Arthur Bronson, deceased, plaintiff in error vs. Peter Rodes, defendant in error.

Mr. Chief Justice Chase delivered the opinion of the court.

This case comes before us upon a writ of error to the supreme court of the State of New York. The facts shown by the record may be briefly stated.

In December, 1851, one Christian Metz, hav­ing borrowed of Frederick Bronson, executor of Arthur Bronson, $1,400, executed his bond for the repayment to Bronson of the principal sum borrowed on the 18th day of January, 1857, in gold and silver coin, lawful money of the United States, with interest also in coin until such repayment, at the yearly rate of seven per cent.

To secure these payments, according to the bond, as such place as Bronson might appoint, or, in default of such appointment, at the Merchants' Bank of New York, Metz executed a mortgage upon certain real property, which was afterwards conveyed to Rodes, who assumed to pay the mortgage debt, and did, in fact, pay the interest until and including the 1st day of January, 1894.

Subsequently, in January, 1865, there having been no demand of payment nor any appointment of a place of payment by Bronson, Rodes tendered to him United States notes to the amount of $1,507, a sum nominally equal to the principal and interest due upon the bond and mortgage.

At that time one dollar in coin was equivalent in market value to two dollars and a quarter in United States notes.

This tender was refused, whereupon Rodes deposited the United States notes in the Merchants' Bank to the credit of Bronson, and filed his bill in equity praying that the mortgagee premises might be relieved from the lien of the mortgage, and that Bronson might be compelled to execute and deliver to him an acknowledgment of the full satisfaction and discharge of the mortgage debt.

The bill was dismissed by the supreme court sitting in Erie county; but, on appeal to the supreme court in general term, the decree of dismissal was reversed, and a decree was entered adjudging that the mortgage had been satisfied

* 2 Black, Com., 475, 476. † 2 Met., 520. ‡ 26 Vt., 468.
¶ 3 Dutch, 395. § 20 California, 330.
* 1 Parsons on Contracts, 7.
The question which we have to consider, therefore, is this: Was Bronson bound by law to accept from Rodes United States notes equal in nominal amount to the sum due him as full performance and satisfaction of a contract which stipulated for the payment of that sum in gold and silver coin, lawful money of the United States?

It is not pretended that any real payment and satisfaction of an obligation to pay fifteen hundred dollars from the estate, would have been done, inquire what was the intent and understanding of Frederick Bronson and Christian Meyer when they entered into the contract under consideration in December, 1851. This inquiry will be assisted by reference to the circumstances under which the contract was made.

Bronson was an executor, charged as a trustee with the administration of an estate. Meyer was a borrower from the estate. It was the clear duty of the former to take security for the full repayment of the money loaned to the latter.

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Bronson was an executor, charged as a trustee with the administration of an estate. Meyer was a borrower from the estate. It was the clear duty of the former to take security for the full repayment of the money loaned to the latter.

The currency of the country at the time consisted mainly of the circulating notes of State banks, convertible, under the laws of the States, into coin, on demand. This convertibility, though far from perfect, together with the act of Congress which required the use and adoption of all receipts and disbursements of the national Government, insured the presence of some coin in the general circulation; but the business of the people was transacted almost entirely through the medium of bank notes. The State banks, that recently emerged from a condition of great depreciation and discredit, the effects of which were still widely felt and the recurrence of a like condition was not unreasonably apprehended by many. This apprehension was, in fact, realized by the general suspension of coin payments, which took place in 1857, shortly after the bond of May 2 became due.

It is not to be doubted, then, that it was to guard against the possibility of loss to the estate, through an attempt to force the acceptance of a fluctuating and perhaps irredeemable currency in payment, that the express stipulation for payment in gold and silver coin was put into the bond. There was no necessity in law for such a stipulation, for at that time no money, except of gold or silver, had been made a legal tender. The bond, without any stipulation to that effect, would have been legally payable only in coin. The terms of the contract must have been selected, therefore, to fix definitely the contract between the parties, and to guard against any possible claim that payment in the ordinary currency ought to be accepted.

The intent of the parties is, therefore, clear. Whatever might be the forms or the fluctuations of the note currency, this contract was not to be affected by them. It was to be paid, at all events, in coined lawful money.

We have just adverted to the fact that the legal obligation of payment in coin was without express stipulation. It will be useful to consider somewhat further the precise import in law of the phrase "dollars payable in gold and silver coin, lawful money of the United States."

To form a correct judgment on this point, it will be necessary to look into the statutes regulating coinage. It would be instructive, doubtless, to review the history of coinage in the United States, and the succession of statutes by which the weight, purity, forms, and impressions of the gold and silver coins have been regulated; but it will be sufficient for our purpose if we examine three only—the act of April 2, 1792, of January 18, 1857; and March 3, 1849.

The act of 1792 established a mint for the purpose of a national coinage. It was the result of very careful and thorough investigations of the subject, in which Jefferson and Hamilton took the greatest part; and its general principles have controlled all subsequent legislation. It provided that the gold of coinage, or standard gold, should consist of eleven parts fine and one part alloy, which alloy was to be of silver and copper in convenient proportions, not exceeding one half silver, and that the silver of coinage should consist of fourteen hundred and eighty-nine parts fine and one hundred and seventy-nine parts of an alloy wholly of copper.

The same act established the dollar as the money unit, and required that it should contain four hundred and sixteen grains of standard silver. It provided further for the coinage of half dollars, quarter-dollars, dimes, and half dimes, also of standard silver, and weighing respectively a half, a quarter, a tenth, and a twentieth of the weight of the dollar. Provision was also made for a gold coinage, consisting of eagles, half-eagles, and quarter-eagles, containing, respectively, two hundred and ninety, one hundred and thirty-five, and sixty-seven and a half grains of standard gold, and being of the value, respectively, of ten dollars, five dollars, and two and a half dollars.

These coins were made a lawful tender in all payments, according to their respective weights of silver or gold; if of full weight, at their declared values, and if of less, at proportional values. And this regulation as to tender remained in full force until 1837.

The rule prescribing the composition of alloy has never been changed; but the proportion of alloy to fine gold and silver, and the absolute weight of coins, have undergone some alteration, partly with a view to the better adjustment of the gold and silver circulations to each other, and partly for the convenience of commerce.

The only change of sufficient importance to require notice, was that made by the act of 1837. That act directed that standard gold, and standard silver also, should thenceforth consist of nine parts pure and one part alloy; that the weight of standard gold in the eagle should be two hundred
dred and fifty eight grains and in the half-eagle and quarter-eagle, respectively, one half and one quarter of that weight precisely; and that the weight of standard silver should be in the dollar ten-hundred twelve and a half grains and in the half dollar, quarter-dollar, dime, and half dime, exactly one-half, one-quarter, one-twentieth, and one-twentieth of that weight.

The act of 1840 authorized the coining of gold double-eagles and gold dollars conformably in all respects to the established standards, and, therefore, of the weights respectively of five hundred and sixteen grains and twenty five and eight-tenths of a grain.

In single coins the deviation tolerated in the gold coins was half a grain in the double eagle, one-fourth of a grain in the quarter eagle, and one-half in the half dollar. It is stipulated that gold and silver coins of the United States legal tender became almost inappreciable; and the most stringent regulations were enforced to secure the utmost attainable exactness, both in weight and purity of metal.

With these and other precautions against the evasion of any piece inferior in weight or purity to the prescribed standard, it was thought safe to make the gold and silver coins of the United States legal tender in all payments according to their nominal or declared values. This was done by the act of 1837. Some regulations as to the tender, for small loans, of coins of less weight and purity were made; but no other provision than that made in 1837, making coined money a legal tender in all payments, now exists upon the statute-books.

The design of all this minuteness and strictness in the regulation of coinage is easily seen. It indicates the intention of the legislature to give a sure guaranty to the people that the coins made current in payments contain the precise weight of gold or silver of the precise degree of purity declared by the statute. It recognizes the fact, accepted by all men throughout the world, that value is inherent in the precious metals; that gold and silver are in themselves values, and being such, and being in other respects best adapted to the purpose, are the only proper measures of value; that these values are determined by weight and purity; and that form and impres, or merely certificate of value, is worthy of absolute reliance only because of the known integrity and good faith of the Government which gives them.

The propositions that the greatest are believed to be incontestible. If they are to be in fact, the inquiry concerning the legal import of the phrase "dollars payable in gold and silver coin, lawful money of the United States," may be answered with but much difficulty. Every such dollar is a piece of gold or silver, certified to be of a certain weight and purity by the form and impress given to it at the mint of the United States, and therefore declared to be legal tender in payments. Any number of such dollars is the number of grains of standard gold or silver in one dollar multiplied by the given number.

Payment of money is delivery by the debtor to the creditor of the amount due. A contract to pay a certain number of dollars in gold or silver coins is, therefore, in legal import, nothing else than an agreement to deliver a certain weight of standard gold, to be ascertained by a count of coins, each of which is certified to contain a definite proportion of that weight. It is not distinguishable, as we think in principle, from a contract to deliver an equal weight of bullion of equal fineness. It is, in circumstance, only by the fact that the sufficiency of the amount to be tendered in payment must be ascertained, in the case of bullion, by assay and the scales, in the case of coin it may be ascertained by count.

We cannot suppose that it was intended by the provisions of the currency acts to enforce the satisfaction of either contract by the tender of depreciated currency of any description equivalent only in nominal amount to the real value of the bullion or of the coined dollars. Our conclusion, therefore, upon this part of the case is, that the bond under consideration was in legal import precisely what it was in the under- standing of the parties, a valid obligation, to be satisfied by a tender of actual payment according to its terms, and not by an offer of mere nominal payment. Its intent was that the debtor should deliver to the creditor a certain weight of gold and silver of a certain fineness, ascertained by count of coins made legal tender by statute, and this intent was lawful.

Arguments and illustrations of much force and value in support of this conclusion might be drawn from the possible case of the repeal of the legal-tender laws relating to coin, and the consequent reduction of coined money to the legal condition of bullion, and also from the actual condition of partial demonetization of the coin and gold and silver money was induced by the introduction into circulation of the United States notes and national bank currency; but we think it unnecessary to pursue this branch of the discussion further.

Nor do we think it necessary now to examine the question whether the clauses of the currency acts making the United States notes a legal tender are warranted by the Constitution. But we will proceed to inquire whether, upon the assumption that these clauses are so warranted, and upon the further assumption that engagements to pay coined dollars may be regarded as ordinary contracts to pay money rather than as contracts to deliver certain weights of standard gold, it can be maintained that a contract to pay coined money may be satisfied by a tender of United States notes.

In this a performance of the contract within the true intent of the acts?

It must be observed that the laws for the coinage of gold and silver have never been repealed or modified. The same on the statute.
book in full force; and the emission of gold and silver coins from the mint continues, the actual coinage during the last fiscal year having exceeded, according to the report of the director of the mint, $20,000,000.

Nor have these provisions of law which make these coins a legal tender in all payments been repealed or modified.

It follows, therefore, that there were two descriptions of money in existence at the time the tender under consideration was made, both authorized by law, and both made legal tender in payments. The statute denominations of both descriptions were dollars; but they were essentially unlike in nature. The coined dollar was, as we have said, a piece of gold or silver of a prescribed degree of purity, weighing a prescribed number of grains. The note dollar was a coined dollar; but it was not a promise to pay on demand nor at any fixed time, nor was it, in fact, convertible into a coined dollar. It was impossible, in the existing exigencies, that these two dollars should be the actual equivalents of each other, nor was there anything in the currency acts purporting to make them such. How far they were, at that time, from being actual equivalents has been already stated.

If, then, no express provision to the contrary be found in the acts of Congress, it is a just, if not a necessary inference, from the fact that both descriptions of money were issued by the same Government, that contracts to pay in either were equally sanctioned by law. It is, indeed, difficult to see how any question can be made on this point. Doubt concerning it can only spring from that confusion of ideas which always attends the introduction of varying and uncertain measures of value into circulation as money.

The several statutes relating to money and legal tender must be construed together. Let it be supposed then that the statutes providing for the coinage of gold and silver dollars are found among the statutes of the same Congress which enacted the laws for the fabrication and issue of note dollars, and that the coinage and note acts, respectively, make coined dollars and note dollars legal tender in all payments, as they actually do. Coinced dollars are now worth more than note dollars, but it is not impossible that note dollars actually convertible into coin at the chief commercial centres, receivable everywhere for all public dues, and made, moreover, a legal tender everywhere for all debts, may become, at some points, worth more than coined dollars. What reason can be assigned now for saying that a contract to pay note dollars must be satisfied by the tender of an equal number of coined dollars?

It is not easy to see how difficulties of this sort can be avoided except by the admission that the tender must be according to the terms of the contract.

But we are not left to gather the intent of these currency acts from mere comparison with the coinage acts. The currency acts themselves provide for payments in coin. Duties on imports must be paid in coin, and interest on the public debt, in the absence of other express provisions, must also be paid in coin. And it hardly requires argument to prove that these positive requirements cannot be fulfilled if contracts between individuals to pay coined dollars can be satisfied by offers to pay their nominal equivalent in note dollars. The merchant who is to pay duties in coin must contract for the coin which he requires; the bank which notices the coin on deposit contracts to repay coin on demand; the messenger who is sent to the bank or the custom-house contracts to pay or deliver the coin according to his instructions. These are all contracts, either express or implied, to pay coin. Is it not plain that duties cannot be paid in coin if these contracts cannot be enforced?

An instructive illustration may be derived from another provision of the same acts. It is expressly provided that all duties to the Government, except for duties on imports, may be paid in United States notes. If, then, the Government, needing more coin than can be collected from duties, contracts with some bank or individual for the needed amount, to be paid at a certain day, can this contract for coin be performed by the tender of an equivalent amount in note dollars? Assuredly it may, if the note dollars are a legal tender to the Government for all dues except duties on imports. And yet a construction which will defeat a very important intent of the act.

Another illustration, not less instructive, may be found in the contracts of the Government with the depositories of bullion by tendering them the ascertained value of their deposits in coin. These are demands against the Government other than for interest on the public debt; and the letter of the acts certainly makes United States notes payable for all demands against the Government except such interest. But can any such construction of the act be maintained? Can judicial sanction be given to the proposition that the Government may discharge its obligation to the depositories of bullion by tendering them a number of note dollars equal to the number of gold or silver dollars which it has contracted by law to pay?

But we need not pursue the subject further. It seems to us clear beyond controversy, that the act must receive the reasonable construction, not only warranted, but required by the comparison of its provisions with the provisions of other acts, and with each other; and that upon such reasonable construction it must be held to sustain the proposition that express contracts to pay coined dollars can only be satisfied by the payment of coined dollars. They are not "debts" which may be satisfied by the tender of United States notes.

It follows that the tender under consideration was not sufficient in law, and that the decree directing satisfaction of the mortgage was erroneous.

Some difficulty has been felt in regard to the judgments proper to be entered upon contracts for the payment of coin. The difficulty arises from the supposition that damages cannot be assessed only in one description of money. But the Act of 1792 provides that "the money of account of the United States shall be expressed in dol-
Mr. Justice Miller, dissenting:

I do not agree to the judgment of the court in this case, and shall, without apology, make a very brief statement of my reasons for believing that the contract in this case, made before the passage of the act or acts commonly called the legal-tender acts, was an agreement to pay $1,400 "in gold and silver coin, lawful money of the United States." And I agree that it was the intention of both parties to this contract that it should be paid in coin.

I go a step further than this, and agree that the legal effect of the contract, as the law stood when it was made, was that it should be paid in coin, and could be paid in nothing else. This was the conjoint effect of the contract of the parties and the law under which that contract was made.

But I do not agree that in this respect the contract under consideration differed, either in intention of the parties, or in its legal effect, from a contract to pay $1,400 without any further description of the dollars to be paid.

The only dollars which, by the laws then in force, or which ever had been in force since the adoption of the federal Constitution, could have been lawfully tendered in payment of any contract simply for dollars, were gold and silver coin.

These were the "lawful money of the United States" mentioned in the contract, and the special reference to them gave no effect to that contract beyond what the law gave.

The contract then did not differ, in its legal obligation, from any other contract payable in dollars. Much weight is attached in the opinion to the special intent of the parties in using the words gold and silver coin, but as I have shown that the intent thus manifested is only what the law would have implied if those words had not been used, I cannot see their importance in distinguishing this contract from others which omit these words. Certainly every man who at that day received a note payable in dollars, expected and had a right to expect to be paid "in gold and silver coin, lawful money of the United States," if he chose to demand it. There was therefore no difference in the intention of the payee to such a contract, and an ordinary contract lawfully tendered in payment of money, so far as the right of the payee to exact coin is concerned.

If I am asked why these words were used in this case, I answer, that they were used out of abundant caution by some one not familiar with the law of the States to make legal-tender laws. It is very well known that under the system of State banks, which furnished almost exclusively the currency in use for a great many years prior to the issue of legal-tender notes by the United States, there was a difference between the value of that currency and gold, even while the bank notes were promptly redeemed in gold. And it was doubtless to exclude any possible assertion of the right to pay this contract in such bank notes that the words gold and silver coin were used, and not with any reference to a possible change in the laws of legal tender established by the United States, which had never, during the sixty years that the Government had been administered under the present Constitution, declared anything else to be a legal tender or lawful money but gold and silver coin.

But if I correctly apprehend the scope of the opinion delivered by the chief justice, the effort to prove for this contract a special intent of payment in gold is only for the purpose of bringing it within the principle there asserted, both by express words and by strong implication, that all contracts must be paid according to the intention of the parties making them. I think I am not mistaken in my recollection that it is
broadly stated that it is the business of courts of justice to enforce contracts as they are intended by the parties, and that the tender must be according to the intent of the contract.

Now, if the argument used to show the intent of the parties to the contract is of any value in this connection, it is plain that such intent must enter in, and form a controlling element in, the judgment of the court in construing the legal tender acts.

I shall not here consume time by any attempt to show that the contract in this case is a debt, or that when Congress said that the notes was about to issue should be received as a legal tender in payment for all private debts, it intended that which these words appropriately convey. To assume that Congress did not intend by that act to authorize a payment by a medium differing from that which the parties intended by the contract is in contradiction to the express language of the statute, to the sense in which it was acted on by the people who paid and received those notes in discharge of contracts for incalculable millions of dollars, where gold dollars alone had been in contemplation of the parties, and to the decisions of the highest courts of fifteen States in the Union, being all that have passed upon the subject.

As I have no doubt that it was intended by those acts to make the notes of the United States to which they applied a legal tender for all private debts then due, or which might become due on contracts then in existence, without regard to the intent or the parties on that point, I must dissent from the judgment of the court, and from the opinion on which it is founded.

**The Status of the State of Texas.**

No. 6 (Original.)—December Term, 1868.

The State of Texas, complainant,


Mr. Chief Justice Chase delivered the opinion of the court.

This is an original suit in this court, in which the State of Texas, claiming certain bonds of the United States as her property, asks an injunction of her boundary, $10,000,000 in five-per-cent. 1800, offered to the State of Texas, in compensation from the national Government, and to the decisions of the highest courts of the State by means of any bonds in the treasury, upon any account, to the extent of $1,000,000.

The defence contemplated by the act was to be made against the United Statisticans.

Under this authority the military board entered into an agreement with George W. White and John Chiles, two of the defendants, for the sale to them of one hundred and thirty-five of these bonds, then in the treasury of the State, and seventy-six more, then deposited with Droегe & Co., in England, in payment for which they engaged to deliver to the board a large quantity of cotton cards and medicines. This agreement was made on the 12th of January, 1865.

On the 12th of March, 1865, White and Chiles received from the military board one hundred and thirty-five of these bonds, none of which were endorsed by any governor of Texas.

Afterward, in the course of the years 1865 and 1866, some of the same bonds came into the possession of others of the defendants by purchase, or as security for advances of money.

Such is a brief outline of the case. It will be necessary hereafter to refer more in detail to some particular circumstances of it.

The first inquiries to which our attention was directed by counsel arose upon the allegations of the answer of Chiles, (1) that no sufficient authority is shown for the prosecution of the suit in the name and on the behalf of the State of Texas; and, (2) that the State having severed her relations with a majority of the States of the Union, and having by her ordinance of secession attempted to throw off her allegiance to the Constitution and Government of the United States, has so far changed her status as to be disabled from prosecuting suits in the national courts.

The first of these allegations is disproved by the evidence. A letter of authority, the authenticity of which is not disputed, has been produced, in which J. W. Throckmorton, elected governor under the constitution adopted in 1866, and proceeding under an act of the State legislature relating to these bonds, expressly ratified and confirmed the action of the solicitor general in delivering the bill, and empowered them to prosecute this suit; and it is further proved by the affidavit of Mr. Paschal, counsel for the complainant, that he was duly appointed by Andrew J. Hamilton, while provisional governor of Texas, to represent the State of Texas in reference to the bonds in controversy, and that his appointment has been renewed by E. M. Pease, the actual governor.

If Texas was a State of the Union at the time of these acts, and these persons, or either of them, were competent to represent the State, this proof

leaves no doubt upon the question of author-
ity.

The other allegation presents a question of
jurisdiction. It is not to be questioned that the
court has original jurisdiction of suits by States
against citizens of other States, or that the States
entitled to invoke this jurisdiction must be States
of the Union. But it is equally clear that no
such jurisdiction has been conferred upon this
court by any other political communities
than such States.

If, therefore, it is true that the State of Texas
was not at the time of filing this bill, or is not now,
one of the United States, we have no juris­
diction of this suit, and it is our duty to dismiss it.

We are very sensible of the magnitude and
importance of this question, of the interest it ex­
cites, and of the difficulty, not to say impossibility,
of so disposing of it as to satisfy the conflicting judgments of men equally enlight­
ened, equally upright, and equally patriotic. But we must de­
termine it in the exercise of our best judgment,
under the guidance of the Constitution alone.

Some not unimportant aid, however, in ascer­
taining the true sense of the Constitution, may
be derived from considering what is the correct
idea of a State, apart from any union or confed­
eration with other States. The poverty of lan­
guage often compels the employment of terms in
quite different significations; and of this hardly
any example more signal is to be found than in
the use of the word we are now considering. It
would serve no useful purpose to attempt an
enumeration of all the various senses in which it
is used. A few only need be noticed.

It describes sometimes a people or community
of individuals united more or less closely in polit­
ic, or social, or territorial relations, temporarily or perma­
nently the same country; often it denotes only
the country or territorial region inhabited by
such a community; not unfrequently it is applied
to the government under which the people live; at other times it represents the combined
idea of people, territory, and government.

It is not difficult to see that in all these senses
the primary conception is that of a people or
community. The people, in whatever territory
dwelling, either temporarily or permanently, and
whether organized under a regular government,
or united by looser and less definite relations,
constitute the State.

This is undoubtedly the fundamental idea upon
which the republican institutions of our own
country are established. It was stated very
clearly by an eminent judge* in one of the ear­
liest cases adjudicated by this court, and we are
not aware of anything in any subsequent decision
of a different tenor.

In the Constitution the term State most fre­
quently expresses the combined idea just noticed,
of people, territory, and government. A State, in
the ordinary sense of the Constitution, is a polit­
ical community of free citizens, occupying a
territory of defined boundaries, and organized
under a government sanctioned and limited by
a written constitution, and established by the
consent of the governed. It is the union of such

* Mr. Justice Paterson, in Penhallow v. Donno's
Adm'r. 3 Dall., 93.

States under a common constitution which forms
the distinct and greater political unit which that
Constitution designates as the United States, and
makes of the people and States which compose it
one people and one country.

The use of the word in this sense hardly re­
quires further remark. In the clauses which
impose prohibitions upon the States in respect to
the making of treaties, emitting of bills of credit,
laying duties of tonnage, and which guaranty
to the States representation in the House of Rep­
resentatives and in the Senate, are found some
instances of this use in the Constitution. Others
will occur to every mind.

But it is also used in its geographical sense, as
in the clauses which require that a representa­
tive in Congress shall be an inhabitant of the
State in which he shall be chosen, and that the
trial of crimes shall be held within the State
where committed.

And there are instances in which the principal
sense of the word seems to be that primary one
to which we have adverted, of a people or politi­
cal community, as distinguished from a govern­
ment.

In this latter sense the word seems to be used
in the clause which provides that the United
States shall guaranty to every State in the
Union a republican form of government, and
shall protect each of them against invasion.

In this clause a plain distinction is made be­
tween a State and the government of a State.

Having thus ascertained the senses in which
the word State is employed in the Constitution,
we will proceed to consider the proper applica­
tion of what has been said.

The republic of Texas was admitted into the
Union as a State on the 27th of December, 1845.

By this act the new State, and the people of the
new State, were invested with all the rights, and
began to subject to all the responsibilities and du­
ties, of the original States under the Constitu­tion.

From the date of admission until 1861, the
State was represented in the Congress of the
United States by her Senators and Repre­
sentatives, and her relations as a member of the
Union remained unimpaired. In that year, act­
ing upon the theory that the rights of a State
under the Constitution might be renounced, and
her obligations thrown off at pleasure, Texas
undertook to sever the bond thus formed, and to
break up her constitutional relations with the
United States.

On the 1st of February* a convention, called
without authority, but subsequently sanctioned
by the legislature regularly elected, adopted an
ordinance to dissolve the union between the
State of Texas and the other States under the
Constitution of the United States, whereby
Texas was declared to be " a separate and sove­
reign State," and " her people and citizens " to
be " absolved from all allegiance to the United
States or the Government thereof."

It was ordered by a vote of the convention†
and by an act of the legislature ‡ that this ordi­
nance should be submitted to the people, for ap­
proval or disapproval, on the 23d of February,
1861.

*Paschal's Digest Laws of Texas, 78. †Paschal's
Digest, 81. ‡Laws of Texas, 1859-61, p. 11.
Without awaiting, however, the decision thus invoked, the convention, on the 4th of February, adopted a resolution, designating seven delegates to represent the State in the convention of seceding States at Montgomery, "in order," as the resolution declared, "that the wishes and interests of the people of Texas may be consulted in reference to the constitution and provisional government that may be established by said convention."

Before the passage of this resolution the convention had appointed a committee of public safety, and adopted an ordinance giving authority to that committee to take measures for obtaining possession of the property of the United States in Texas, and for removing the national troops from her limits. The members of the committees, and all officers and agents appointed or employed by it, were sworn to secrecy and allegiance to the State. Commissioners were at once appointed, with instructions to repair to the headquarters of General Twiggs, then representing the United States in command of the department, and to make the demands necessary for the accomplishment of the purposes of the committee. A military force was organized in support of these demands, and an arrangement was effected with the commanding general by which the United States troops were engaged to leave the State, and the forts and all the public property, not necessary to the removal of the troops, were surrendered to the commissioners.

These transactions took place between the 2d and the 8th of February, and it was under these circumstances that the vote upon the ratification or rejection of the ordinance of secession was taken on the 23d of February. It was ratified by a majority of the voters of the State.

The convention, which had adjourned before the vote was taken, reassembled on the 2d of March, and instructed the delegates already sent to the congress of the seceding States to apply for admission into the confederation, and to give the adhesion of Texas to its provisional constitution.

It proceeded, also, to make the changes in the State constitution which this adhesion made necessary. The words "United States" were stricken out wherever they occurred, and the words "Confederate States" substituted; and the members of the legislature, and all officers of the State, were required by the new constitution to take an oath of fidelity to the constitution and laws of the new confederacy.

Before, indeed, these changes in the constitution had been completed, the officers of the State had been required to appear before the committee, and take an oath of allegiance to the Confederate States.

The governor and secretary of state, refusing to comply, were summarily ejected from office.

The members of the legislature, which had also adjourned and reassembled on the 18th of March, were more compliant. They took the oath, and proceeded, on the 8th of April, to provide by law for the choice of electors of president and vice president of the Confederate States.

The representatives of the State in the Congress of the United States were withdrawn, and, as soon as the seceded States became organized under a constitution, Texas sent senators and representatives to the confederate congress.

In all respects, so far as the object could be accomplished by ordinances of the convention, by acts of the legislature, and by votes of the citizens, the relations of Texas to the Union were broken up, and new relations to a new government were established for them.

The position thus assumed could only be maintained by arms, and Texas accordingly took part with the other Confederate States in the rebellion which these events made inevitable. During the whole of that war there was no governor, or judge, or any other State officer in Texas who recognized the national authority. Nor was any officer of the United States permitted to exercise any authority whatever under the national Government within the limits of the State, except under the immediate protection of the national military forces.

Did Texas in consequence of these acts cease to be a State? Or, if not, did the State cease to be a member of the Union?

It is needless to discuss at length the question whether the right of a State to withdraw from the Union for any cause regarded by herself as sufficient is consistent with the Constitution of the United States.

The Union of the States never was a purely artificial and arbitrary relation. It began among the colonies, and grew out of common origin, mutual sympathies, kindred principles, similar interests, and geographical relations. It was confirmed and strengthened by the necessities of war, and received definite form, and character, and sanction, from the Articles of Confederation.

By these the Union was solemnly declared to "be perpetual." And, when these articles were found to be inadequate to the exigencies of the country, the Constitution was ordained "to form a more perfect Union." It is difficult to convey the idea of indissoluble unity more clearly than by these words. What can be indissoluble, if a perpetual Union made more perfect is not?

But the perpetuity and indissolubility of the Union by no means implies the loss of distinct and individual existence, or of the right of self-government, by the States. Under the Articles of Confederation each State retained its sovereignty, freedom, and independence, and every power, jurisdiction, and right, not expressly delegated to the United States. Under the Constitution, though the powers of the States were much restricted, still all powers not delegated to the United States, nor prohibited to the States, are reserved to the States respectively, or to the people. And we have already had occasion to remark at this term, that "the people of each State compose a State, having its own government, and endowed with all the functions essential to separate and independent existence;" and that "without the States in union there could be no such political body as the United States." Not only, therefore, can there be no loss of separate and independent autonomy to

*Paschal's Digest, 80. † Texan Reports of the Committee, (Lib. of Con.), p. 46.

*County of Lane vs. The State of Oregon.
the States, through their union under the Constitution, but it may be not unreasonably said that the preservation of the States and the maintenance of their governments are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the national Government. The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States.

When, therefore, Texas became one of the United States, she entered into an indissoluble relation. All the obligations of perpetual union, and all the guaranties of republican government in the whole series of such acts and declarations of the State as a member of the Union, and to be a State nor her citizens to be citizens of the United States. The act which consummated her admission into the Union was something more than a compact—it was the incorporation of a new member into the political body, and it was final. The union between Texas and the other States was as complete, as perpetual, and as indissoluble as the constitutions, but it may be not unreasonably said as an act which consummated her admission into the Union, and was the incorporation of a new member into the political body, and it was final. The union between Texas and the other States was as complete, as perpetual, and as indissoluble as the union of the State as a member of the Union, and all the guaranties of republican government in the whole series of such acts and declarations of the State as a member of the Union, and to be a State nor her citizens to be citizens of the United States. The act which consummated her admission into the Union was something more than a compact—it was the incorporation of a new member into the political body, and it was final. The union between Texas and the other States was as complete, as perpetual, and as indissoluble as the union of the original States. There was no place for reconsideration or revocation, except through revolution or through consent of the States.

Considered, therefore, as transactions under the Constitution, the ordinance of secession adopted by the convention and ratified by a majority of the citizens of Texas, and all the acts of her legislature intended to give effect to that ordinance, were absolutely null. They were utterly without operation in law. The obligations of the State as a member of the Union, and of every citizen of the State as a citizen of the United States, remained perfect and unimpaired.

It is certainly the conclusion of all who have entered into the premises which we have endeavored to establish, that the governmental relations of Texas to the Union remained unaltered. Obligations often remain unimpaired, while relations are greatly changed. The obligations of allegiance to the State and of obedience to her laws, subject to the Constitution of the United States, are binding upon all citizens, whether faithful or unfaithful to them; but the relations which subsist while these obligations are performed are essentially different from those which arise when they are disregarded and set at nought. And the same must necessarily be true of the obligations and relations of States and citizens to the Union. No one has been bold enough to contend that, while Texas was controlled by a Government hostile to the United States, and, in affiliation with a hostile confederation, waging war upon the United States, the States. The first was that of suppressing the rebellion. The next was that of re-establishing the broken relations of the State with the Union. The first of these duties having been performed, the next necessarily engaged the attention of the national Government.

The authority for the performance of the first had been found in the power to suppress insurrection and carry on war; for the performance of the second, authority was derived from the obligation of the United States to guaranty to every State in the Union a republican form of government. The latter, indeed, in the case of a rebellion, which involves the government of a State, and, for the time, excludes the national authority from its limits, seems to be a necessary complement to the former.

Of this the case of Texas furnishes a striking illustration. When the war closed there was no government in the State except that which had been organized for the purpose of waging war against the United States. That government immediately disappeared. The chief functionaries left the State. Many of the subordinate officials followed their example. Legal responsibilities were annulled or greatly impaired. It was inevitable that great confusion should prevail. If order was maintained, it was where the good sense and virtue of the citizens gave support to local acting magistrates, or supplied more directly the necessary restraints.

A great social change increased the difficulty of the situation. Slaves in the insurgent States, with certain local exceptions, had been declared free by the proclamation of emancipation, and whatever questions might be made as to the effect of that act under the Constitution, it was clear from the beginning that its practical operation, in connection with legislative acts of like tendency, must be complete enfranchisement. Wherever the national forces obtained control, the slaves became freemen. Support to the acts of Congress and the proclamation of the President concerning slaves was made a condition of amnesty by President Lincoln, in December, 1863, and by President Johnson, in May, 1865. And emancipation was confirmed, rather than ordained, in the insurgent States, by the amendment to the Constitution prohibiting slavery throughout the
Union, which was proposed by Congress in February, 1865, and ratified before the close of the following autumn by the requisite three-fourths of the States.*

The new freemen necessarily became part of the people, and the people still constituted the State; for States, like individuals, retain their identity, though changed to some extent in their constituent elements. And it was the State, thus constituted, which was now entitled to the benefit of the constitutional guaranty.

There being, then, no government in Texas, in constitutional relations with the Union, it became the duty of the United States to provide for the restoration of the State to its constitutional relations, under a republican form of government, and that no acts be done, and no authority exerted, which is either prohibited or of means is necessarily allowed. It is essential that the old constitution should receive such amendments as would conform its provisions to the new conditions created by emancipation, and afford adequate security to the people of the State.

In the exercise of the power conferred by the guaranty clause, as in the exercise of every other constitutional power, a discretion in the choice of means is necessarily allowed. It is essential only that the means must be necessary and proper for carrying into execution the power conferred, through the restoration of the State to its constitutional relations, under a republican form of government, and that no acts be done, and no authority exerted, which is either prohibited or unsanctioned by the Constitution.

It is not important to review at length the measures which have been taken under this power by the executive and legislative departments of the National Government. It is proper, however, to observe, that almost immediately after the cessation of organized hostilities, and while the war yet smoldered in Texas, the President of the United States issued his proclamation appointing a provisional governor for the State, and providing for the assembling of a convention, with a view to the re-establishment of a republican government, under an amended constitution and the restoration of the State to her proper constitutional relations. A convention was accordingly assembled, the constitution amended, elections held, and a State government acknowledging its obligations to the Union established.

Whether the action then taken was in all respects warranted by the Constitution it is not now necessary to determine. The power exercised by the President was supposed doubtless to be derived from his constitutional functions as commander-in-chief; and, so long as the war continued, or as it was believed he might institute temporary government within insurgent districts occupied by the national forces, or take measures in any State for the restoration of State government faithful to the Union, employing, however, in such efforts, only such means and agents as were authorized by constitutional laws.

But the power to carry into effect the clause of guaranty is primarily a legislative power and resides in Congress. "Under the fourth 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 government, Congress must necessarily decide which governments are established in the State before it can determine whether it is republican or not."

This is the language of the late Chief Justice, speaking for this court, in a case arising from the organization of opposing governments in that State. And we think that the principle sanctioned by it may be applied with even more propriety to the case of a State deprived of all rightful government by revolutionary violence, though necessarily limited to cases where the rightful government is thus subjected or in imminent danger of being overthrown by an opposing government set up by force within the State.

The action of the President must, therefore, be considered as provisional, so far as it seems to have been regarded by Congress. It was taken after the term of the 38th Congress had expired. The 38th Congress, which assembled in December, 1865, proceeded, by the act of March 2 that the governments which were engaged in the rebellion have been restored to their constitutional relations, under a republican form of government adjudged to be republican by Congress, through the admission of their Senators and Representatives into the councils of the Union."

Nothing in the case before us requires the court to pronounce judgment upon the constitutionality of any particular provision of these acts.

But it is important to observe, that these acts themselves show that the governments which had been established, and had been in actual operation under executive direction, were recognized by Congress as provisional, as existing, and as capable of continuance.

By the act of March 2, 1867, the first of the series, these governments were, indeed, pronounced illegal, and were subjected to military control, and were declared to be provisional only; and by the supplementary act of July 10, 1867, the third of the series, it was further declared, that it was the true intent and meaning of the act of March 2 that the governments then existing were not legal State governments, and, if continued, were to be continued subject to the military commanders of the respective districts and to the paramount authority of Congress. We do not inquire here into the constitutionality of this legislation so far as it relates to military authority, or to the paramount authority of Congress. It suffices to say, that the terms of the acts necessarily imply recognition of actually existing governments, and that, in *Luther vs. Borden, 7 How., 42. †U. S. St., 428.
point of fact, the governments thus recognized, in some important respects, still exist. What has thus been said generally describes with sufficient accuracy the situation of Texas. A provisional governor of the State was appointed by the President in 1861, in 1866 a governor was elected by the people under the constitution of that year, at a subsequent date a governor was appointed by the commander of the district. Each of the three exercised executive functions, and actually represented the State in the executive department.

In the case before us each has given his sanction to the prosecution of the suit, and we find no difficulty, without investigating the legal title of either to the executive office, in holding that the sanction thus given sufficiently warranted the action of the solicitor and counsel in behalf of the State. The necessary conclusion is that the suit was instituted and is prosecuted by competent authority.

The question of jurisdiction being thus disposed of, we proceed to the consideration of the merits as presented by the pleadings and the evidence.

And the first question to be answered is, whether or not the title of the State to the bonds in controversy was divested by the contract of the military board with White and Chiles?

That the property was that of the State of Texas on the 11th of January, 1862, when the act prohibiting alienation without the endorsement of the governor was repealed, admits of no question and is not denied. They came into her possession and ownership through public acts of the General Government and of the State, which gave notice to all the world of the transaction consummated by them. And we think it clear that, if a State by a public act of her legislature imposes restrictions upon the alienation of her property, every person who takes a transfer of that property must be held affected by notice of them. Alienation in disregard of such restrictions can convey no title.

In this case, however, it is said that the restrictions imposed by that act were repealed by the act of 1862. And this is true if the act of 1862 can be regarded as valid. But was it valid?

The legislature of Texas, at the time of the repeal, constituted one of the departments of a State government established in hostility to the Constitution of the United States. It cannot be regarded, therefore, in the courts of the United States, as a lawful legislature, or its acts as lawful acts. And, yet it is a historical fact that the government of Texas, then in full control of the State, was its only actual government; and, certainly, if Texas had been a separate State, and not one of the United States, the new government, having displaced the regular authority, and having established itself in the customary seats of power, and in the exercise of the ordinary functions of administration, would have constituted, in the strictest sense of the words, a de facto government, and its acts, during the period of its existence, would be effectual, and in almost all respects valid. And to some extent this is true of the actual government of Texas, though unlawful and revolutionary as to the United States.

It is not necessary to attempt any exact definitions within which the acts of such a State government must be treated as valid or invalid. It may be said, perhaps with sufficient accuracy, that acts necessary to peace and good order among citizens, such, for example, as acts sanctioning and protecting marriage and the domestic relations, governing the course of descents, regulating the conveyance and transfer of property, real and personal, and providing remedies for injuries to person and estate, and other similar acts, which would be valid if emanating from a lawful government, must be regarded in general as valid when proceeding from an actual, though unlawful government; and that acts in furtherance or support of rebellion against the United States, or intended to defeat the just rights of citizens, and other acts of like nature, must, in general, be regarded as invalid and void.

What, then, tried by these general tests, was the character of the contract of the military board with White and Chiles?

That board, as we have seen, was organized, not for the defence of the State against a foreign invasion, or for its protection against domestic violence, within the meaning of these words as used in the national Constitution, but for the purpose, under the name of defence, of levying war against the United States. This purpose was undoubtedly unlawful, for the acts which it contemplated are, within the express definition of the Constitution, treasonable.

It is true that the military board was subsequently reorganized. It consisted thereafter of the governor and two other members, appointed and removable by him; and was, therefore, entirely subordinate to executive control. Its general object remained without change, but its powers were "extended to the control of all public works and supplies, and to the aid of the military board in its operations, and to the payment of articles necessary and proper for such aid."

And it was insisted in argument on behalf of some of the defendants that the act of 1861 was repealed by the act of 1862, not for the defence of the State against a foreign or domestic invasion, or for its protection against domestic violence, but for the purchase of cotton cards and medicines, was not a contract in aid of the rebellion, but for obtaining goods capable of a use entirely legitimate and innocent, and therefore that payment for those goods by the transfer of any property of the State was not unlawful. We cannot adopt this view. Without entering at this time upon the inquiry whether any contract made by such a board can be sustained, we are obliged to say that the enlarged powers of the board appear to us to have been conferred in furtherance of its main purpose of war against the United States, and that the contract under consideration, even if made in the execution of these enlarged powers, was still a contract in aid of the rebellion, and therefore void. And we cannot shut our eyes to the evidence which proves that the act of repeal was intended to aid rebellion by facilitating the transfer of these bonds. It was supposed, doubtless, that negotiation of them would be less difficult if they bore upon their face no direct evidence of having come from the possession of any insurgent State government.
We can give no effect, therefore, to this repealing act.

It follows that the title of the State was not divested by the act of the insurgent government in entering into this contract.

But it was insisted further, in behalf of those defendants who claim certain of these bonds by purchase, or as collateral security, that however unlawful may have been the means by which White and Chiles obtained possession of the bonds, they are innocent holders without notice, and entitled to protection as such under the rules which apply to securities which pass by delivery. These rules were fully discussed in Murray vs. Lardner.* We held in that case that the purchase of coupon bonds, before due, without constructive notice, is unaffected by want of title in the seller, and that the burden of proof in respect to notice and want of good faith is on the claimant of the bonds as against the purchasers. We are entirely satisfied with this doctrine.

Does the State, then, show affirmatively notice to these defendants of want of title to the bonds in White and Chiles?

It would be difficult to give a negative answer to this question, if there were no other proof than the legislative acts of Texas. But there is other evidence which might fairly be held to be sufficient proof of notice, if the rule to which we have adverted could be properly applied to this case.

But these rules have never been applied to matured obligations. Purchasers of notes or bonds past due take nothing but the actual right and title of the vendors.†

The bonds in question were dated January 1, 1861, and were redeemable after the 31st of December, 1861. In strictness, it is true they were not payable on the day when they became redeemable; but the known usage of the United States to pay all bonds as soon as the right of payment accrues, except where a distinction between redeemability and payability is made by law and shown on the face of the bonds, requires the application of the rule respecting overdue obligations to bonds of the United States which have become redeemable, and in respect to which no such distinction has been made.

Now, all the bonds in controversy became redeemable before the date of the contract with White and Chiles; and all bonds of the same issue which have the endorsement of a governor of Texas made before the date of the secession ordinance—and there were no others endorsed by any governor—had been paid in coin on presentation at the Treasury Department; while, on the contrary, applications for the payment of bonds, without the required endorsement, and of coupons detached from such bonds, made to that department, had been denied.

As a necessary consequence, the negotiation of these bonds became difficult. They sold much below the rates they would have commanded had the title to them been unquestioned. They were bought in fact, and under the circumstances could only have been bought, upon speculation. The purchasers took the risk of a bad title, hoping, doubtless, that, through the action of the national Government or of the government of Texas, it might be converted into a good one. And it is true that the first provisional governor of Texas encouraged the expectation that these bonds would be ultimately paid to the holders. But he was not authorized to make any engagement in behalf of the State, and in fact made none. It is true, also, that the Treasury Department, influenced perhaps by these representations, departed to some extent from its original rules, and paid bonds held by some of the defendants without the required endorsement. But it is clear that this change in the action of the department could not affect the rights of Texas as a State of the Union, having a government acknowledging her obligations to the national Constitution.

It is impossible upon this evidence to hold the defendants protected by absence of notice of the want of title in White and Chiles. As these persons acquired no right to payment of these bonds as against the State, purchasers could acquire none through them.

On the whole case, therefore, our conclusion is, that the State of Texas is entitled to the relief sought by her bill, and a decree must be made accordingly.

Dissenting Opinion.

Mr. Justice Grier dissenting, delivered the following opinion:

I regret that I am compelled to dissent from the opinion of the majority of the court on all the points raised and decided in this case.

The first question in order is the jurisdiction of the court to entertain this bill in behalf of the State of Texas.

The original jurisdiction of this court can be invoked only by one of the United States. The Territories have no such right conferred on them by the Constitution, nor have the Indian tribes who are under the protection of the military authorities of the Government.

Is Texas one of these United States? Or was she such at the time this bill was filed, or since? This is to be decided as a political fact, not as a legal fiction. This court is bound to know and notice the public history of the nation.

If I regard the truth of history for the last eight years, I cannot discover the State of Texas as one of these United States. I do not think it necessary to notice any of the very subtle arguments which have been advanced by the learned counsel in this case, to find the definition of a State, when we have the subject treated in a clear and common-sense manner, and without any subtle judicial abstractions, by Chief Justice Marshall, in the case of Hepburn & Dundas vs. Eliza, 2 Cranch, 402. As the case is short and clear, I hope to be excused for a full report of the case as stated and decided by the court.

"The question," says Marshall, C. J., "is whether the plaintiffs, as residents of the District of Columbia, can maintain an action in the circuit court of the United States for the district of Virginia. This depends on the act of Congress describing the jurisdiction of that court. The act gives jurisdiction to the circuit courts in
cases between a citizen of the State in which the suit is brought, and a citizen of another State. To support the jurisdiction in this case, it must appear that Columbia is a State. On the part of the plaintiff it has been urged that Columbia is a State. On the part of the United States shall be composed of two classes. The House of Representatives is to be composed of members chosen by the people of the several States, and each State shall have at least one representative. ‘The Senate of the United States shall be composed of two senators from each State.’ Each State shall appoint for the election of the executive a number of electors equal to its whole number of senators and representatives. These clauses show that the word ‘State’ is used in the Constitution as designating a member of the Union, and excludes from the term the signification attached to it by writers on the law of nations.”

Now we have here a clear and well defined test by which we may arrive at a conclusion with regard to the questions of fact now to be decided. In Texas a State, now represented by members chosen by the people of that State and received on the floor of Congress? Has she two senators to represent her as a State in the Senate of the United States? Has her voice been heard in the late election of President? Is she not now held and governed as a conquered province by military force? The act of Congress of March 28, 1867, declares Texas to be a “rebel State,” and provides for its government until a legal and republican State government could be legally established. It constituted Louisiana and Texas the fifth military district, and made it subject, not to the civil authority, but to the “military authorities of the United States.”

It is true that no organized rebellion now exists there. But the courts of the United States now exercise jurisdiction over the people of that province. But this is no test of the State’s being in the Union. Dakota is a State, and yet the courts of the United States administer justice there as they do in Texas. The Indian tribes, who are governed by military force, cannot claim to be States of the Union. Therein does the condition of Texas differ from theirs?

Now, by assuming or admitting as a fact the present status of Texas as a State not in the Union politically, I beg leave to protest against any charge of inconsistency as to judicial opinions herebefore expressed as a member of this court or silently assented to. I do not consider myself bound to express any opinion judicially as to the constitutional rights of Texas to exercise the rights and privileges of a State of this Union, or the power of Congress to govern her as a conquered province, to subject her to military domination and keep her in pupilage. I can only submit to the fact as decided by the political position of the government; and I am not disposed to join in any essay of judicial subtlety to prove Texas to be a State of the Union, when Congress have decided that she is not. It is a question of fact, I repeat, and of fact only. Politically, Texas is not a State in this Union. Whether rightfully out of it or not is a question not before the court, and I am not called on to confute a fact with syllogisms.

But conceding now the fact to be as judicially assumed by my brethren, the next question is whether Texas has a right to repudiate her contracts? Before proceeding to answer this question, we must notice a fact in this case that was forgotten in the argument. I mean that the United States are no party to this suit, and refusing to pay the bonds because the money paid would be used to advance the interests of the rebellion. It is a matter of utter insignificance to the Government of the United States to whom she makes the payment of these bonds. They are payable to the bearer. The Government is not bound to inquire into the bona fides of the holder, nor whether the State of Texas has parted with the bonds wisely or foolishly. And, although by the reconstruction acts she is required to repudiate all debts contracted for the purposes of the rebellion, this does not annul all acts of the State government during the rebellion or contracts for other purposes, nor authorize the State to repudiate them.

Now, whether we assume the State of Texas to be judicially in the Union (though actually out of it) or not, it will not alter the case. The contest is now between the State of Texas and her own citizens. She seeks to annul a contract with the respondents based on the allegation that there was no authority in Texas competent to enter into an agreement during the rebellion. Having relied upon one judicial fiction, namely, that she was a State in the Union, she now relies upon a second one, which she wishes this court to adopt, that she was not a State at all during the five years that she was in rebellion. She now sets up the plea of insanity, and asks the court to treat all her acts made during the disease as void.

We have had some very astute logic to prove that judicially she was not a State at all, although governed by her own legislature and executive as “a distinct political body.”

The ordinance of secession was adopted by the convention on the 18th February, 1861, submitted to a vote of the people, and ratified by an overwhelming majority.

I admit that this was a very ill-advised measure. Still, it was the sovereign act of a sovereign State, and the verdict on the trial of this question “by battle,” (Prize Cases, 2 Black, 673,) as to her right to secede, has been against her. But that verdict did not settle any question not involved in the case. It did not settle the question of her right to plead insanity and set aside all her contracts, made during the pending of the trial, with her own citizens, for food, clothing, or medicines. The same “organized political body,” exercising the sovereign power of the State, which required the endorsement of these bonds by the governor, also passed the laws authorizing the disposal of them without such endorsement. She
cannot, like the chameleon, assume the color of the object to which she adheres, and ask this court to involve itself in the contradictory positions that she is a State in the Union and was never out of it, and yet not a State at all for four years, during which time acted and claims to be an organized political body," exercising all the powers and functions of an independent sovereign State. Whether a State de facto or de jure, she is estopped from denying her identity in disputes with her own citizens. If they have not fulfilled their contract, she can have her legal remedy for the breach of it in her own courts.

But the case of Hardenburg differs from that of the other defendants. He purchased the bonds in open market, bona fide, and for a full consideration. Now, it is to be observed that these bonds are payable to bearer, and that this court is estopped from denying her right to resume the possession of them, and reclaim them from a bona fide owner by a decree of a court of equity.

A court of chancery is said to be a court of conscience; and however astute may be the argument introduced to defend this decree, I can only say that neither my reason nor my conscience can give assent to it. Of course I am justly convicted by my brethren of an erroneous use of both; but I hope I may say, without offense, that I am not convinced of it.

Mr. Justice Swayne delivered the following opinion:

"I concur with my brother Grier as to the incompetency of the State of Texas, in her present condition, to maintain an original suit in this court. The question, in my judgment, is one in relation to which this court is bound by the action of the legislative department of the Government. Upon the merits of the case I agree with the majority of my brethren. I am authorized to say that my brother Miller unites with me in these views. The decree in this case was, on motion of William M. Evarts and J. M. Carlisle, suspended in so far as it affects the rights of any holders or purchasers of the coupon bonds who obtained them in open market, and a re-argument of the case was ordered for October next."

**The McCardle Case.**

Ex parte William H. McCardle, appellant.

Mr. Chief Justice Chase delivered the opinion of the court.

This cause came here by appeal from the circuit court for the southern district of Mississippi.

A petition for the writ of habeas corpus was preferred in that court by the appellant, alleging unlawful restraint by military force.

The writ was issued, and a venire was made by the military commander, admitting the restraint, but denying that it was unlawful.

It appeared that the petitioner was not in the military service of the United States, but was held in custody by military authority for trial before a military commission upon charges founded upon the publication of articles alleged to be incendiary and libellous, in a newspaper of which he was editor.

Upon the hearing the petitioner was remanded to the military custody; but upon his prayer an appeal was allowed him to this court, and, upon filing the usual appeal bond for costs, he was admitted to bail upon recognizance, with sureties, conditioned for his future appearance in the circuit court, to abide by and perform the final judgment of this court.

A motion to dismiss this appeal was made at the last term, and, after argument, was denied. A full statement of the case may be found in the report of this decision,* and it is unnecessary to repeat it here.

Subsequently the case was argued very thoroughly and ably upon the merits, and was taken under advisement. While it was thus held, and before conference in regard to the decision proper to be made, an act was passed by Congress, returned with objections by the President, and re-passed by the constitutional majority, which it is insisted takes from this court jurisdiction of the appeal.

The second section of this act was as follows:

"And be it further enacted, That so much of the act approved February 5, 1867, entitled an act to amend an act to establish the judicial courts of the United States, approved September 24, 1789, as authorized an appeal from the judgment of the circuit court to the Supreme Court of the United States, or the exercise of any such jurisdiction by said Supreme Court on appeals which have been or may hereafter be taken, be, and the same is hereby, repealed."*

The attention of the court was directed to this statute at the last term, but counsel having expressed a desire to be heard in argument upon its effect, and the Chief Justice being detained from his place here by his duties in the court of impeachment, the cause was continued under advisement.

At this term we have heard argument upon the effect of the repealing act, and will now dispose of the case.

The first question necessarily is that of jurisdiction; for, if the act of March, 1868, takes away the jurisdiction defined by the act of February, 1867, it is useless, if not improper, to enter into any discussion of other questions.

It is quite true, as was argued by the counsel for the petitioner, that the appellate jurisdiction of this court is not derived from acts of Congress. It is, strictly speaking, conferred by the Consti-

*Ex partes McCardile, 6 Wall., 318. +Act March 27, 1868, 15 U. S. St. 44.
It is unnecessary to consider whether, if Congress had made no exceptions and no regulations, this court might not have exercised general appellate jurisdiction under rules prescribed by itself. For among the earliest acts of the 1st Congress, at its 1st session, was the act of September 24, 1789, to establish the judicial courts of the United States. That act provided for the organization of this court, and prescribed regulations for the exercise of its jurisdiction.

The source of that jurisdiction, and the limitations of it by the Constitution and by statute, have been on several occasions subjects of consideration here. In the case of Duroseaux v. The United States, particularly, the whole matter was carefully examined, and the court held that, while the appellate powers of this court are not given by the judicial act, but are given by the Constitution, "they are nevertheless limited and regulated by that act, and by such other acts as have been passed on the subject."

The court said further, that the judicial act was an exercise of the power given by the Constitution to Congress of making exceptions to the appellate jurisdiction of the Supreme Court.

The exception to appellate jurisdiction in the case before us, however, is not an inference from the affirmation of other appellate jurisdiction. It is made in terms. The provision of the act of 1867, affirming the appellate jurisdiction of this court, and prescribed regulations for the exercise of its jurisdiction, implies the negation ofн all such jurisdiction any cases but appeals from circuit courts exercising firmly that which the Constitution and the laws confer.

The principle that the affirmation of appellate jurisdiction implies the negation of all such jurisdiction not affirmed having been thus established, it was an almost necessary consequence that acts of Congress, providing for the exercise of such appellate power as is not comprehended within it."

The principle that the affirmation of appellate jurisdiction implies the negation of all such jurisdiction not affirmed having been thus established, was an almost necessary consequence that acts of Congress, providing for the exercise of such appellate power as is not comprehended within it."

The exception to appellate jurisdiction in the case before us, however, is not an inference from the affirmation of other appellate jurisdiction. It is made in terms. The provision of the act of 1867, affirming the appellate jurisdiction of this court in cases of habeas corpus, is expressly repealed. It is hardly possible to imagine a plainer instance of positive exception.

We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words.

What, then, is the effect of the repealing act upon the case before us? We cannot doubt as to this. Without jurisdiction the court cannot proceed at all in any case. Jurisdiction is power to declare the law, and when it ceases to exist, the duty function remaining to the court is that of announcing the fact and dismissing the cause.

And this is not less clear upon authority than upon principle.

Several cases were cited by the counsel for the petitioner in support of the position that jurisdiction of this case is not affected by the repealing act. But none of them, in our judgment, afford any support to it. They are all cases of the exercise of judicial power by the legislature, or of legislative interference with courts in the exercising of continuing jurisdiction.

On the other hand, the general rule, supported by the best elementary writers, is, that "when an act of the legislature is repealed, it must be considered, except as to transactions past and -closed, as if it never existed." And the effect of repealing acts upon suits under acts repealed has been determined by the adjudications of this court. The subject was fully considered in Nor­ris v. Crocker, and more recently in Insurance Company vs. Ritchie. In both of these cases it was held that no judgment could be rendered in a suit after the repeal of the act under which it was brought and prosecuted.

It is quite clear, therefore, that this court cannot proceed to pronounce judgment in this case, for it has no longer jurisdiction of the appeal; and judicial duty is not less fitly performed by declining ungranted jurisdiction than in exercising firmly that which the Constitution and the laws confer.

Counsel seem to have supposed, if effect be given to the repealing act in question, that the whole appellate power of the court in cases in habeas corpus is not affected. But this is an error. The act of 1867 does not except from that jurisdiction any cases but appeals from circuit courts under the act of 1867. It does affect the jurisdiction which was previously exercised.

The appeal of the petitioner in this case must be dismissed for want of jurisdiction.

Opinions in the Caesar Griffin Case—Virginia.

OPINION OF CHIEF JUSTICE CHASE, MAY 19, 1869.

Circuit court of the United States for the district of Virginia, in the matter of Caesar Griffin—Petition for habeas corpus.

This is an appeal from an order of discharge from imprisonment made by the district judge, acting as a judge of the circuit court, upon a writ of habeas corpus, allowed upon the petition of Caesar Griffin.

The petition alleged unlawful restraint of the petitioner, in violation of the Constitution of the United States, by the sheriff of Rockbridge county, Virginia, in virtue of a pretended judgment rendered in the circuit court of that county by Hugh W. Shephey, present and presiding therein as judge, though disabled from holding any office whatsoever by the XIVth amendment of the Constitution of the United States.

Upon this petition a writ of habeas corpus was allowed and served, and the body of the petitioner, with a return showing the cause of detention, was produced by the sheriff, in conformity with its command. The general facts of the case, as shown to the district judge, may be briefly stated as follows:

The circuit court of Rockbridge county is a court of record of the State of Virginia, having civil and criminal jurisdiction. In this court, the petitioner, Caesar Griffin, indicted in...
county court for shooting, with intent to kill, was regularly tried in pursuance of his own election; and, having been convicted, was sentenced according to the finding of the jury, to imprisonment for two years, and was in the custody of the sheriff. The sentence was pronounced according to the finding of the jury, to imprison him, either in indictment, trial, or sentence, on account of color.

It was not claimed that the grand jury by which he was indicted, or the petit jury by which he was tried, was not in all respects lawful and competent. Nor was it alleged that Judge Sheffey, the judge who presided at the trial and pronounced the sentence, did not conduct the trial with fairness and uprightness.

One of the counsel for the petitioner, indeed, upon the hearing in this court, pronounced an opinion that he was entitled to his discharge as a magistrate, to deserve which might well be the honorable aspiration of any judge.

But it was alleged and was admitted that Judge Sheffey, in December, 1849, as a member of the Virginia house of delegates, took an oath to support the Constitution of the United States, and also that he was a member of the legislature of Virginia during the late rebellion in 1862, and as such voted for measures to sustain the so-called Confederate States in their war against the United States; and it was claimed in behalf of the petitioner that he thereby became disqualified to hold any office under the State of Virginia, or as a member of any State legislature, was disqualified to hold any office, civil or military, under the United States, or under any State; and it was specially insisted that the sentence pronounced by the judge upon the ground of the incapacity of Sheffey under the XIVth amendment to act as judge and pass sentence of imprisonment.

Upon this showing and argument it was held by the district judge that the sentence of Cesar Griffin was absolutely null; that his imprisonment was in violation of the Constitution of the United States, and an order for his discharge from custody was made accordingly.

The general question to be determined on the appeal from this order is whether or not the sentence of the circuit court of Rockbridge county must be regarded as a nullity, because of the disability to hold any office under the State of Virginia imposed by the XIVth amendment on the person who in fact presided as judge in that court.

It may be properly borne in mind that the disqualification did not exist at the time that Sheffey became a member of the Virginia house of delegates.

When the functionaries of the State government existing in Virginia at the commencement of the late civil war took part, together with a majority of the citizens of the State, in rebellion against the Government of the United States, they ceased to constitute a State government for the State of Virginia which could be recognized as such by the national Government. The State pamphlet of hostility to the Union, however, was not published throughout the State. In many counties the local authorities and majorities of the people adhered to the national Government; and representatives from those counties soon after assembled in convention at Wheeling, and organized a government for the State. This government was recognized as the lawful government of Virginia by the executive and legislative departments of the national Government, and this recognition was conclusive upon the judicial department.

The government of the State thus recognized was, in contemplation of law, the government of the whole State of Virginia, though excluded, as the Government of the United States was itself excluded, from the greater portion of the territory of the State. It was the legislature of the reorganized State which gave the consent of Virginia to the formation of the State of West Virginia.

To the formation of that State the consent of its own legislature and of the legislature of the State of Virginia and of Congress was indispensable. If either had been wanting, no State within the limits of its own territory, or within the limits of the other State, could have been constitutionally formed; and it is clear, that if the government instituted at Wheeling was not the government of the whole State of Virginia, no new State has ever been constitutionally formed within its ancient boundaries.

It cannot admit of question, then, that the government which consented to the formation of the State of West Virginia, remained, in all national relations, the government of Virginia, although that event reduced to very narrow limits the territory acknowledging its jurisdiction, and not controlled by insurgent force. Indeed, it is well known, historically, that the State and the government of Virginia, thus organized, was recognized by the national Government. Senators and Representatives from the State occupied seats in Congress, and when the insurgent forces which held possession of the principal part of the territory was overcome, and the government recognized by the United States transferred from Alexandria to Richmond, it became, in fact, what it was before in law, the government of the whole State. As such it was entitled, under the Constitution, to the same recognition and respect, in national relations, as the government of any other State.

It was under this government that Hugh W. Sheffey was, on the 22d February, 1866, duly appointed judge of the circuit court of Rockbridge county, and he was in the regular exercise of his functions as such when Griffin was tried and sentenced.

More than two years had elapsed, after the date of his appointment, when the ratification of the XIVth amendment by the requisite number of States was officially promulgated by the Secretary of State, on the 28th of July, 1868.

That amendment, in its 3d section, ordains that "no person shall be a senator or representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion, ..."
against the same, or given aid or comfort to the enemies thereof.

And it is admitted that the office held by Judge Sheffey, at the time of the trial of Griffin, was an office under the State of Virginia, and that he was one of the persons to whom the prohibition to hold office pronounced by the amendment applied.

The question to be considered, therefore, is whether, upon a sound construction of the amendment, it must be regarded as operating directly, without any intermediate proceeding whatever, upon all persons within the category of prohibition, and as depriving them at once and absolutely of all official authority and power.

One of the counsel for the petitioner suggested that the amendment must be construed with reference to the act of 1867, which extends the writ of habeas corpus to a large class of cases in which the previous legislation did not allow it to be issued. And it is proper to say a few words of this suggestion here.

The judgment act of 1789 expressly denied the benefit of the writ of habeas corpus to prisoners not confined under or by color of the authority of the United States. Under that act no person confined under State authority could have the benefit of the writ. Afterwards, in 1833 and 1842, the writ was extended to certain cases, specially described, of imprisonment under State process; and in 1867, by the act to which the counsel referred, the writ was still further extended "to all cases where any person may be restrained of liberty in violation of the Constitution, or of any treaty or law of the United States."

And the learned counsel was doubtless correct in maintaining that without the act of 1867 there would be no remedy for habeas corpus in the case of the petitioner, nor, indeed, in any case of imprisonment in violation of the Constitution of the United States, except in the possible case of an imprisonment not only within the provisions of this act, but also within the provisions of some one of the previous acts of 1789, 1833, and 1842.

But, if, in saying that the amendment must be construed with reference to the act, the counsel meant to affirm that the existence of the act throws any light whatever upon the construction of the amendment, the court is unable to perceive the force of his observation.

It is not pretended that imprisonment for shooting with intent to kill is unconstitutional, and it will hardly be affirmed that the act of 1867 throws any light whatever upon the question, whether such imprisonment is in any particular case unconstitutional. The case of unconstitutional imprisonment must be established by appropriate evidence. It cannot be inferred from the existence of a remedy for such a case. And, surely, no construction, otherwise unwarranted, can be put upon the amendment more than upon any other provision of the Constitution, to make it a case of violation out of acts which, otherwise, must be regarded as not only constitutional, but right.

We come then to the question of construction. What was the intention of the people of the United States in adopting the XIVth amendment? What is the true scope and purpose of the prohibition to hold office contained in the third section?

The proposition maintained in behalf of the petitioner is, that this prohibition instantly, on the day of its promulgation, vacated all offices held by persons within the category of prohibition, and made all official acts performed by them since that day null and void.

One of the counsel sought to vindicate this construction of the amendment upon the ground that the definitions of the verb "to hold," given by Webster, in his dictionary, are "to stop; to confine; to restrain from escape; to keep fast; to retain;" of which definitions the author says that "to hold rarely or never signifies the first act of seizing or falling on, but the act of retaining a thing when seized on or confined."

The other counsel seemed to be embarrassed by the difficulties of this literal construction, and sought to establish a distinction between sentences in criminal cases and judgments and decrees in civil cases. He admitted, indeed, that the latter might be valid when made by a court held by a judge within the prohibitive category of the amendment, but insisted that the sentences of the same court in criminal cases must be treated as nullities. The ground of the distinction, if we correctly apprehend the argument, was found in the circumstance that the act of 1867 provided a summary redress in the latter class of cases; while in the former no summary remedy could be had, and great inconvenience would arise from regarding decrees and judgments as utterly null and without effect.

But this ground of distinction seems to the court unsubstantial. It rests upon the fallacy already commented on. The amendment makes no such distinction as is supposed. It does not deal with cases, but with persons. The prohibition is general. No person in the prohibitive category can hold office. It applies to all persons and to all offices, under the United States or any State. If upon a true construction it operates as a removal of a judge, and avoids all sentences in criminal cases pronounced by him after the promulgation of the amendment it must be held to have the effect of removing all judges and all officers, and annulling all their official acts after that date.

The literal construction, therefore, is the only one upon which the order of the learned district judge, discharging the prisoner, can be sustained, and was, indeed, as appears from his certificate, the construction upon which the order was made. He says expressly, "the right of the petitioner to his discharge appeared to me to rest solely on the incapacity of the said Hugh W. Sheffey to act, (that is, as judge,) and so to sentence the prisoner, under the XIVth amendment."

Was this a correct construction?

In the examination of questions of this sort, great attention is properly paid to the argument from inconvenience. This argument, it is true, cannot prevail over plain words or clear reason. But, on the other hand, a construction which must necessarily occasion great public and private mischief must never be preferred to a construction which will occasion neither, or neither in so great degree, unless the terms of
the instrument absolutely require such prefer-
ence.
Let it then be considered what consequences
would spring from the literal interpretation con-
tended for in behalf of the petitioner.

The amendment applies to all the States of the
Union, to all offices under the United States
or under any of them, and to all persons in the
category of prohibition, and for all time, present
and future. The offences for which exclusion
from office is denounced are not merely engaging
in insurrection or rebellion against the United
States, but the giving of aid or comfort to their
enemies. They are offences not only of civil,
but of foreign war.

Now, let it be supposed that some of the persons
described in the third section, during the war with
Mexico, gave aid and comfort to the enemies of
their country, and nevertheless held some office
on the 28th of July, 1868, or subsequently.
Is it a reasonable construction of the amend-
ment which will make it annul every official act
of such an officer?

But let another view be taken. It is well
known that these persons engaged in the late
rebellion have emigrated to States which ad-
hered to the national Government, and it is not
to be doubted that not a few among them, as
members of Congress, or officers of the United
States, or as members of State legislatures, or
as executive or judicial officers of a State, had
before the war taken an oath to support the
Constitution of the United States. In their
new homes, capacity, integrity, fitness, and ac-
ceptability, may very possibly have been more
looked to than antecedents. Probably some of
these persons have been elected to office in the
States which have received them. It is not
unlikely that some of them held office on the
28th July, 1868. Must all their official acts be
held to be null under the inexorable exigencies
of the amendment?

But the principal intent of the amendment
was, doubtless, to provide for the exclusion from
office in the lately insurgent States of all per-
sons within the prohibitive description.

Now, it is well known that before the amend-
ment was proposed by Congress, governments
acknowledging the constitutional supremacy of
the national Government had been organized in
all these States. In some these governments
had been organized through the direct action of
the people, encouraged and supported by the
President, as in Tennessee, Louisiana and Ar-
kanas, and in some through similar action in
pursuance of Executive proclamation, as in
North Carolina, Alabama, and several other
States. In Virginia such a State government
had been organized as has been already stated,
soon after the commencement of the war; and
this government only had been fully recognized
by Congress as well as by the President.

This government, indeed, and all the others,
except that of Tennessee, were declared by Con-
gress to be provisional only.

But in all these States all offices had been
filled, before the ratification of the amendment,
by citizens who at the time of the ratification
were actively engaged in the performance of
their several duties. Very many, if not a ma-

The amendment itself was the first of the se-
ries of measures proposed or adopted by Con-
gress with a view to the reorganization of State
Governments acknowledging the constitutional
supremacy of the national Government in those
States which had attempted to break up their
constitutional relations with the Union, and to
establish an independent confederacy.

All citizens who had, during its earlier stages,
engaged in or aided the war against the United
States, which resulted inevitably from this at-
tempt, had incurred the penalties of treason
under the statute of 1790.

But by the act of July 17, 1862, while the civil
war was flagrant, the death penalty for treason
committed by engaging in rebellion was practi-
cally abolished. Afterwards, in December, 1863,
full amnesty, on conditions which now certainly
seem to be moderate, was offered by President
Lincoln, in accordance with the same act of
Congress; and, after organized resistance to the
United States had ceased, amnesty was again of-
f ered, in accordance with the same act, by Presi-
dent Johnson, in May, 1865. In both these offers
of amnesty extensive exceptions were made.

In June, 1866, little more than a year later, the
XIVth amendment was proposed, and was rat-
ified in July, 1868. The only punitive section
contained in it is the third, now under consider-
anion. It is not improbable that one of the
objects of this section was to provide for the se-
curity of the nation and of individuals by the
exclusion of a class of citizens from office; but it can hardly be doubted that its main purpose was to inflict upon the leading and most influential characters who had been engaged in the rebellion, exclusion from office as a punishment for the offence.

It is true that, in the judgment of some enlightened jurists, its legal effect was to remit all other punishment, for it led to the general amnesty of December 25, of the same year, and to the order discontinuing all prosecutions for crime and proceedings for confiscation originating in the rebellion. Such certainly was its practical effect. But this very effect shows distinctly its punitive character.

Now, it is undoubtedly that those provisions of the Constitution which deny to the legislature power to deprive any person of life, liberty, or property without due process of law, or to pass a bill of attainder, are inconsistent, in their spirit and general purpose, with any provision which at once, without trial, deprives a whole class of persons of offices held by them for cause, however grave. It is true that no limit can be imposed on the people when exercising their sovereign power in amending their own constitution of government. But it is a necessary presumption that the people, in the exercise of that power, seek to confirm and improve, rather than to weaken and impair, the general spirit of the Constitution.

If there were no other grounds than these for seeking another interpretation of the amendment, we should feel ourselves bound to hold them sufficient. But there is another and sufficient ground, and it is this, that the construction demanded in behalf of the petitioner is nugatory except for mischief.

In the language of one of the counsel, "the object had in view by us is not to unset Hugh W. Sheffey, and no judgment of the court can operate. To accomplish this ascertainment and secure effective results, proceedings, evidence, decisions, and enforcement of decisions, more or less formal, are indispensable; and these can only be provided for by Congress." Now, the necessity of this is recognized by the amendment itself, in its fifth and final section, which declares that "Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

There are, indeed, other sections than the third, to the enforcement of which legislation is necessary; but there is no one which more clearly requires legislation in order to give effect to it. The fifth section qualifies the third to the same extent as it would if the whole amendment consisted of these two sections.

And the final clause of the third section itself is significant; it gives to Congress absolute control of the whole operation of the amendment. These are its words: "But Congress may, by a vote of two thirds of each House, remove such disability." Taking the third section then in its completeness, with this final clause, it seems to put beyond reasonable question the conclusion that the intention of the people of the United States in adopting the XIVth amendment was to create a disability, to be removed in proper cases by a two thirds vote, and to be made operative in other cases by the legislation of Congress in its ordinary course. The construction gives certain effect to the undeveloped intent of the amendment to insure the exclusion from office of the designated class of persons, if not relieved from their disabilities, and avoids the manifest evils which must attend the construction insisted on by the counsel for the petitioner.

It results from this examination that persons in office by lawful appointment, or elected before the promulgation of the XIVth amendment, are not removed therefrom by the direct and immediate effect of the provision to hold office contained in the third section; but that legislation by Congress is necessary to give effect to the prohibition, by providing for such removal. And it results further, that the exercise of their several functions by these officers, until removed in pursuance of such legislation, is not unlawful.

The views which have been just stated receive strong confirmation from the action of Congress and of the executive department of the Government. The decision of the district judge, now under revision, was made in December, 1868, and two months afterwards, in February, 1869, Congress adopted a joint resolution, entitled "A resolution respecting the provisional governments of Virginia and Texas." In this resolution it was provided, that persons "hold ing office in the provisional governments of Virginia and Texas," but unable to take and subscribe the test-oath prescribed by the act of July 2, 1862, except those relieved from disability, "be removed therefrom;" but a provision was added, suspending the operation of the resolution for thirty days from its passage. The joint resolution was passed and received by the President on the 6th of February, and,
not having been returned in ten days, became a law without his approval.

It cannot be doubted that this joint resolution recognized persons unable to take the oath required, to which class belonged all persons within the description of the third section of the XIVth amendment, as holding office in Virginia at the date of its passage, and provided for their removal from office.

It is not clear whether it was the intent of Congress that this removal should be effected in Virginia by the force of the joint resolution itself, or by the commander of the first military district. It was understood by the executive or military authorities as directed the removal of the persons described by military order. The resolution was published by command of the general of the army, for the information of all concerned, on the 22d of March, 1869. It had been previously published by the commander of the first military district, accompanied by an order, to take effect on the 18th of March, 1869, removing the persons described from office. The date at which this order was to take effect was afterwards changed to the 21st of March.

It is plain enough from this statement that persons holding office in Virginia, and within the prohibition of the XIVth amendment, were not regarded by Congress, or by the military authority, in March, 1869, as having been already removed from office.

It is unnecessary to discuss here the question whether the government of Virginia, which seems to have been not provisional, but permanent, when transferred from Alexandria to Richmond, became constitutional under the subsequent legislation of Congress, or to express any opinion concerning the validity of the joint resolution, or of the proceedings under it. The resolution and proceedings are referred to here only for the purpose of showing that the amendment had not been regarded by Congress or the executive, so far as represented by the military authorities, as effecting an immediate removal of the officers described in the third section.

After the most careful consideration, I find myself constrained to the conclusion that Hugh W. Shafter had not been removed from the office of judge at the time of the trial and sentence of the petitioner; and, therefore, that the sentence of the circuit court of Rockbridge county was lawful.

In this view of the case, it becomes unnecessary to determine the question relating to the effect of the sentence of a judge de facto, exercising the office with the color, but without the substance of right. It is proper to say, however, that I should have no difficulty in sustaining the custody of the sheriff under the sentence of a court held by such a judge.

Instructive argument and illustration of this branch of the case might be derived from an examination of those provisions of the Constitution ordaining that no person shall be a representative, senator, or President, unless having certain prescribed qualifications. These provisions, as well as those which ordain that no senator or representative shall, during his term of service, be appointed to any office under the United States, under certain circumstances, and that no person holding any such office shall, while holding such office, be a member of either House, operate on the capacity to take office. The election or appointment itself is prohibited and invalidated; and yet no instance is believed to exist where a person has been actually elected, and has actually taken the office, notwithstanding the prohibition, and his acts while exercising its functions have been held invalid.

But it is unnecessary to pursue the examination. The cases cited by counsel cover the whole ground, both of principle and authority.

This subject received the consideration of the judges of the Supreme Court at the last term with reference to this and kindred cases in this district, and I am authorized to say that they unanimously concurred in the opinion, that a person convicted by a jury, and sentenced in court held by a judge de facto, acting under color of office, though not de jure, and detained in custody in pursuance of his sentence, cannot be properly discharged upon habeas corpus.

It follows that the order of the district judge must be reversed, and that the petitioner must be remanded to the custody of the sheriff of Rockbridge county.

OPINION OF JUDGE UNDERWOOD.

In the matter of Caesar Griffin—Petition for habeas corpus.

In entering upon the consideration of this case, I am oppressed by the gravity of the principles and consequences it involves. The history of civilization has established the fact that the liberties of the people in all modern nations depend upon the restraints which courts of justice have succeeded in opposing to the oppressions of tyrants and usurpers. And no device for this purpose can be compared with the writ of habeas corpus, which we have inherited from our English ancestors.

That great scholar and writer, Dr. Samuel Johnson, well said to his friend Boswell, "the habeas corpus is the single advantage which our government has over that of other countries."

The historian Macaulay, in his graphic description of the tyrant James the Second, has well written: "One of his objects was to obtain a repeal of the habeas corpus act, which he hated, as it was natural that a tyrant should hate the most stringent curb that ever legislation imposed on tyranny. This feeling remained deeply fixed in his mind to the last, and appears in the instructions which he gave to his agents. But the habeas corpus act, though passed during the ascendancy of the whigs, was not more dear to the whigs than to the tories. It is, indeed, not wonderful that this great law should be highly prized by all Englishmen, without distinction of party; for it is a law which, not by circumscriptions, but by direct operation, adds to the security and happiness of every inhabitant of the realm."

The petition in the present case alleges that the petitioner is deprived of his liberty in violation of the Constitution of the United States, and the evidence proves that he is imprisoned
under color of a sentence pronounced against
him by a person pretending to be a judge of the
circuit court of Rockbridge county, in the State
of Virginia; that the said pretended judge, hav­
ing previously taken an oath as a member of the
State legislature to support the Constitution of
the United States, had engaged in insurrection
or rebellion against the same, or given aid or
comfort to the enemies thereof; whereas the
Constitution of the United States (amendments,
Art. XIV) provides that no such person as afores
aid shall hold any civil office under any State;
and, consequently, the said pretended judge had
no jurisdiction over the person or alleged offence
of the petitioner, and all his proceedings in the
case were invalid and absolutely void.

Two questions are before the court. They are
both of a legal, not of a political character, and
I propose to treat them strictly upon legal
principles and judicial authority. They are:

1. Did the writ properly issue in this case?
2. Ought the petitioner, on the consideration of
the whole case, to be discharged?

First. Did the writ properly issue?

The act of Congress of February 5, 1867, pro
vides as follows:

"Be it enacted, etc., that the several
courts of the United States and the several jus-
tices and judges of said courts within their re
spetive jurisdictions, in addition to the authority
already conferred by law, shall have power to
grant writs of habeas corpus in all cases where
any person may be restrained of his or her lib­
erty in violation of the Constitution, or of any
treaty or law of the United States; and it shall be
lawful for such person so restrained of his or her
liberty to apply to either of said justices or
judges for a writ of habeas corpus, which appli-
cation shall be in writing and verified by affidavit,
and shall set forth the facts concerning the de
tention of the party applying, in whose custody
he or she is detained, and by virtue of what claim
or authority, if known; and the said justice or
judge to whom such application shall be made
shall forthwith award a writ of habeas corpus
unless it shall appear from the petition itself that
the party is not deprived of his or her liberty in
contravention of the Constitution and laws of
the United States."

The petition, in form, complied with the re
quirements of the statute; and it did not appear
from the petition itself that the party is not
deprived of his liberty in contravention of the
Constitution of the United States. Therefore the
obligation would seem to have been imperative
on the judge to whom the application was made
to issue the writ. The language of the statute is
sufficiently plain, even without the aid of judicial
construction. But it has had judicial construc
tion by the highest authority in the land. In Mc
Cardle's case the Supreme Court of the United
States, in an opinion delivered by its learned
Chief Justice, with his usual force and elegance
of expression, said:

"This legislation is of the most comprehensive
character. It brings within the habeas corpus ju
risdiction of every court and of every judge every
possible case of privation of liberty contrary to
the national Constitution, treaties, or laws. It
is impossible to widen this jurisdiction."

A judge capable of understanding the plainest
English language could enter into no doubt un
der the statute, of his duty to issue the writ, on
a petition such as was presented in this case;
and if any doubt could have arisen under the
statute standing alone, this decision of the Su
preme Court of the United States would have
removed it.

2d. Ought the petitioner, on the return, answer,
and evidence, to be discharged?

The XIVth amendment to the Constitution
provides:

"Sec. 3. No person shall be a senator or rep
resentative in Congress, elector of President
and Vice President, or hold any office, civil or
military, under the United States, or any State,
who, having previously taken an oath, as a mem
ber of Congress, or as an officer of the United
States, or as a member of any State legislature,
or as an executive or judicial officer of any State,
to support the Constitution of the United States,
shall have been engaged in insurrection or rebel
lion against the same, or given aid or comfort to
the enemies thereof."

The fact that the person who pronounced the
sentence was disqualified, under the XIVth
amendment of the Constitution of the United
States, is not controverted, and I believe to be
incontrovertible. But it is argued that the court
was a court de facto, and that the disqualifica
tion of the judge cannot be availed of in a col
lateral proceeding.

Let us examine these two points:

First. That it was a court de facto. It is hard
ly worth our while to be frightened, at this day,
by a little law Latin. De facto means of or from
the fact, or, more properly, as used here, in fact;
that is to say, the objection urged is, that this
was a court in fact, if not in law

Now, let us ask what makes it a court in fact?
Is that a court in fact which the Constitution of
the United States says shall not be a court? Then
the Constitution is a dead letter-a mat to wipe
our feet upon—not a shield to protect our hands.
There can be no such thing, in time of peace,
when the national authority is everywhere re establis
hed, as a court prohibited by the Constitution,
and a court composed of such judges is so prohbi
ted) and yet having power to deprive citizens of
their life or their liberty. Such a proposition
seems to me the most unmeanable of absurdities
on its very face.

If the doctrine here urged is correct, and is
the doctrine on which our practice is to be based,
it might be advantageously incorporated into this
XIVth amendment and made a part of it. We
will see how this amendment would then read.
I know no better way to exhibit the unmeanable
ness of the proposition than thus to put it into
the shape of that organic law which, it is con
tended, it ought to control.

"No person shall hold any civil office" in
theory, though he may in fact, and as a rebel
pretended judge may sentence loyal men to be
imprisoned and to be hanged, "who, having pre
viously taken an oath as a member of Congress,
or as an officer of the United States, or as a mem
ber of any State legislature, or as an executive
or judicial officer of any State, to support the
Constitution of the United States, shall have
judge, and he shall exercise all the power and authority of a judge over your lives and over your liberties.

This great nation has spoken in the most solemn and authoritative manner in which its voice is known, and it has said: Such a man shall not be a judge; and am I, as an exponent of its will and power, to presume to answer back? I agree that in theory it shall be according to your command; but, in defiance of your express decree, he shall in fact, or, as lawyers say, de facto, be a judge, and he shall exercise all the power and authority of a judge over your lives and over your liberties.

If this thing can be, then a single judge, sitting here in this court-room, has the power, attempted in vain by armies, to nullify the Constitution and set the law enacted by the national legislature at defiance.

What says the illustrious Chief Justice Marshall on the nature and obligation of the oath administered to a judge of the courts of the United States? I am sworn to support the Constitution of the United States. If, after having taken that oath, I were to hold that he shall be a judge of whom the Constitution says, "He shall hold no civil office," I could not look upon myself another than a perjured man.

And the Constitution endeavors to preserve all men from the official acts of all those whom the XIVth amendment disqualifies for holding civil office. And if we are thus bound to obey the Constitution even when we might shield ourselves by a law in violation of it, as Chief Justice Marshall declares, with what triple bonds are we to bind it when, as in this case, there is not only no law against it, but when we have a law aiding and enforcing our obedience, enacted by the same Congress which submitted this provision of the Constitution to the people, and for the very purpose of making our duty so plain that to err would seem impossible.

What is called a court de facto in this case was not, in any proper and legal sense, a court. Nothing expressly prohibited by the Constitution was ever so called. A court is defined to be "an incorporeal political being, which requires for its existence the presence of the judges, or a clerk, or prothonotary." &c. There was no judge present at that court, unless a man can be a judge of whom the Constitution declares he shall not be a judge. And I certainly shall never rule that the Constitution of this country is impotent, effete, and not to be obeyed when, as in this case, I must shield myself from the Constitution even when we might shield ourselves by a law in violation of it.

"If," asks Chief Justice Marshall, "an act of the legislature repugnant to the Constitution is void, does it, notwithstanding its invalidity, bind the courts and oblige them to give it effect? On, or in other words, though it be not law, does it constitute a rule as operative as if it was a law?" And he remarks: "This would be to overthrow in fact what was established in theory; and would seem, at first view, an absurdity too gross to be insisted on."

So, I ask, if the Constitution has declared that a person disqualified in a certain manner shall hold no civil office, and a person so disqualified attempts to exercise the office of judge shall I hold that his acts, notwithstanding his constitutional disqualifications, bind this court, and obliges its judges to give them effect? And I say further, in the language of that illustrious chief justice: "This would be to overturn in fact what was established in theory, and would seem to be an absurdity too gross to be insisted on." From the earliest period in the history of the writ of habeas corpus it has been uniformly held.
that one of the most conclusive grounds for discharging a prisoner under that great writ was that he was held under color of the authority of a court not of competent jurisdiction, although, ordinarily, the writ would not lie for a prisoner in execution; yet it would lie for such a prisoner if the execution issued out of a court not of competent jurisdiction.

Says the great Lord Chief Justice Wilmot, in his masterly exposition of the law of habeas corpus, contained in a series of learned and profound answers to questions proposed to him by the house of lords:

"If it appears clearly that the act for which the party is committed is no crime, or that it is a crime, but he is committed for it by a person who has no jurisdiction, then he may be discharged."

Now, what jurisdiction has a judge who is declared by the Constitution incapable of being a judge? Not a particle more than judge Lynch, a mother of bastardy, or vigilance, or a lion in the grape field?

If he has any jurisdiction, then we have no constitution. Either all his official acts are void, or the Constitution is void. The two cannot both stand valid by planter; and if this court is bound blindly to consider such a court a court de facto, then this court is not itself a court de facto, but only in name.

The reports are full of cases in which proceedings of courts have been held to be void because the courts were composed, even in part, of disqualified magistrates.

In Regina v. The Aberdare Canal Company, the proceedings of the commissioners were held to be void by the queen's bench of England, because a few, out of a large body of commissioners, were disqualified by one of the provisions of the statute known as the canal act. (14 Q. B., 834.)

In Regina v. The Cheltenham Commissioners, the proceedings of the commissioners were quashed by the queen's bench, "because a question in the cause had been decided by a court improperly constituted." (12 Q. B., 467.)

Indeed, it is an old maxim of law, *judicum non suo judicium*—judgment, if not pronounced by the proper judge, is of no effect.

I therefore conclude, that on general and long-established legal principles the petitioner is entitled to his discharge. But our duty in the case is not left to the guidance of general principles, although according to them it would seem to be plain enough. But it is specifically pointed out by the statute—the habeas corpus act of 1867. That act provides, that the "court or judge shall proceed in a summary way to determine the facts in the case, by bearing testimony and giving answers to questions propounded to him by the parties interested, and if it shall appear that the petitioner is deprived of his liberty in contravention of the Constitution or laws of the United States, he or she shall forthwith be discharged." Now, it does appear in this case that the prisoner is deprived of his liberty in contravention of the Constitution, and it seems to me that nothing can be plainer than that we must discharge him, or violate an act of Congress and our oath of office.

Some other points in the argument in opposition it may be well enough to notice.

It is asserted that legislation by Congress is necessary to give effect to this constitutional provision—that it cannot act "*propria vigore*." The provision, like that which says no bill of attainder or ex post facto law shall be passed, is a mere negation. It says no person disqualified, as this pretended judge is admitted to be, shall hold any office, and it does not need additional legislation for the application of the writ of habeas corpus, than legislation is needed to understand and apply the simplest axioms of Euclid, the ten commandments, or the Lord's prayer.

It is said that the character or jurisdiction of the court cannot be examined in a collateral proceeding. But if this is a collateral proceeding I should like to know what is a direct one? We examine nothing but the exact point at issue. The petitioner alleges that he is imprisoned under color of authority of an unconstitutional tribunal. Under this allegation, which is denied by the opposing party, certain and direct manner possible, to know whether the petitioner is held in confinement by legal authority, and if at the time of the demand it can be shown that he is restrained of his liberty without lawful constitutional authority, it requires immediate deliverance. It is the people's great writ of right and liberty, and cannot be abridged or defeated by any forms or pretences of precedent, by any legal quilbues, technicalities, or presumptions, which would prevent the most speedy, thorough, and rigid investigation.

To the prisoner, loaded with chains or pining within the bolts and bars of the most filthy dungeon, it proclaims the privilege of a hearing. It says to the jailer: Tyrant, oppressor, and usurper, stand back; let me know for what cause and by what authority you presume to hold this man, made in the image of his Maker, in this durance, shut from the common air and sunlight bestowed by almighty Goodness as the common inheritance of the human race.

In the name of Runnymede, of British bills of rights, of the revolution of 1688 and 1779, of the laws and Constitution of the United States, and of the God of liberty, of law, and justice, and equally, it demands the most thorough investigation of this case, and claims that no imprisonment is legal by any order, either of judge Lynch, of a committee of vigilance, town mob, or of any person who is not at the time fully qualified to act in so solemn a transaction as that of imprisoning a fellow man.

And clearly every man, under constitutional prohibition, is as incapable of rightful, valid, official action as if he was physically dead.

Moreover, it is contended the great inconvenience will result from the enforcement of the Constitution and the laws. That argument is one which I think ought not to be very popular in this community. Whatever inconvenience may result from the maintenance of the Constitution and the laws, I think the experience of the last few years shows that much greater inconvenience results from attempting their overthrow.
Where the words of the statute are clear, the argument of inconvenience is only for the legislature, and cannot be considered by the court. "Arguments drawn from impolicy or inconvenience," says Mr. Justice Story, "ought to have little weight. The only sound principle is to declare the lex scripta est—to follow and to obey." (Conflict of Laws, 17.)

Where the language is clear, and where, of course, the intention of the legislature is manifest," says Mr. Chief Justice Shaw, "the court is not at liberty to be governed by considerations of inconvenience." (11 Pick., 407.)

In this case the language of the statute is perfectly clear, and the court is not at liberty to be governed by considerations of inconvenience.

The Constitution declares that "This Constitution, and the laws and treaties enacted in pursuance thereof, shall be the supreme law of the land. It does not say that they shall be the supreme law of the land when they are not found as a resort to arms."

Arguments drawn from impolicy or inconvenience, where it was urged that to discharge the petitioner would be to destroy the constitution, and that the laws and treaties enacted in pursuance of that Constitution, and the laws and treaties enacted in pursuance thereof, could have been accomplished without so much inconvenience, were decided in favor of the petitioner, after a second argument, the first not being entirely satisfactory, was decided in favor of the petitioner, after a second argument, and the court for leave to file an information for a habeas corpus, published in the English State Trials, for a clerk of the superior court, he and the solicitor general, the solicitor general having notified him, as an independent argument for that circuit to make out an information in the name of the State of Georgia, the solicitor general having notified him, and at the same time filed an answer denying that he was a person of color, or that he had one-eighth or more of African blood in his veins.

The court heard the motion, as an independent argument for the circuit to make out an information in the name of the State of Georgia, the solicitor general having notified him, and at the same time filed an answer denying that he was a person of color, or that he had one-eighth or more of African blood in his veins.

Richard W. White had been declared elected, and had been commissioned, and was in the actual performance of the duties of the office, and that Richard W. White was a person of color, having one-eighth or more of African blood in his veins. That, therefore, under the laws of Georgia, he was ineligible to office; and further, that under the laws of Georgia, as White, the person having the majority of votes, was ineligible, he Clements, having received the next highest number of votes, was entitled to the position. He prayed the court for leave to file an information for a quo warranto. To that petition, of which White was notified, he (White) filed a demurrer. Subsequently, however, he withdrew the demurrer to that petition, and the information issued in the name of the State of Georgia. The court passed an order directing the solicitor general that for that circuit to make out an information in the name of the State, reciting, in effect, the facts which had been stated in Clements' petition, and calling upon White to show cause why a mandamus absolute should not issue against him, depriving him of the office and putting Clements in. White, at the proper time fixed by the information for answering, filed a demurrer to the information, and at the same time filed an answer denying that he was a person of color, or that he had one-eighth or more of African blood in his veins.

On this the court summoned a jury for the purpose of trying the issue. When the jury had been sworn, the defendant below (the plaintiff here) called up his demurrer to the information. It is stated in the record that the plaintiff, in the information, made no objection to taking up the demurrer at that time, but consented; and the court heard the motion, as an independent motion, before the case was submitted to the court. The court decided that in the argument upon that motion—that demurrer—Clements,
JUDICIAL DECISIONS, ETC.

The movant in the general proceeding, was entitled to open and conclude the argument; that, the matter being before the jury, the general rule which gives to the party moving in a demurrer the right to open and conclude did not apply.

The court heard the argument on the demurrer and overruled the demurrer. The case then went to the jury on the issue of fact, whether or not White had one-eighth or more of African blood in his veins. On the trial there were various questions made as to the testimony. One witness testified that the defendant, White, was reputed in the neighborhood to be a colored person. Another witness testified that he (the witness) was a registrar of voters, that when White registered, he, the registrar, had affixed opposite White's name the letter "C," to denote that he was a person of color, that he subsequently posted the lists in a public place, and that if he had remained there two or three weeks, without any application having been made to him to have that letter "C" erased or changed. It did not appear, however, that there was any notice to White that this letter "C" had been placed opposite to his name, nor did it appear that it was the law or the practice that, if he had applied to have it corrected, they would have corrected it; in other words, that it was the part or the duty of the officer at all to make that entry. At least it has not so been made to appear to us.

This evidence was objected to by the defence, but admitted by the court. The court also admitted as evidence the statement by a physician, an examining physician of an insurance company, that at a previous time he had examined White, and had pronounced him a mulatto. There was no testimony by the physician of what his opinion was at the time of the trial. The testimony was that at some previous time he had examined him, and was at that previous time of opinion that he was a mulatto.

In the further progress of the trial they proposed to introduce a copy of an application for life insurance on the life of White in favor of his wife, which application purported to be signed by White. The application does not seem to have a word in it as to whether White was a white man or black man, it gave no indication as to his color; but on the back of it there was an entry, by a person who purported to be an examining physician, that "White was a mulatto." The witness swore at first that he thought White signed the paper, but swore afterwards that he didn't know whether White had signed it or whether his wife had signed it for him.

Objection was also registered, the plaintiff in error, but of a new character. Objection was made to this paper on three grounds: one, that it was a copy-paper, though it was proven that the original was in New York; the other that there was no proof that the original had been executed; and, third, that in any event the paper amounted to nothing.

Another witness, also a physician, swore that he was a practicing physician, and that he had studied the science of ethnology; that that science taught men the rules by which the race of a man was ascertained, and this witness gave his opinion upon the point. The court admitted his opinion, that White was a person of color, as being the opinion of an expert. The case went to the jury on this testimony. There were some objections to the charge of the court, which we have not noticed, because we didn't think the point very material. The jury found for the plaintiff in the information. Thereupon the court passed judgment, discharging White from his position as clerk of the superior court, and declaring that Clements was entitled to hold that office.

This case has been argued before us with a great deal of learning and ability.

This court has agreed upon the judgment which it will deliver in this case, but not upon the reasons upon which this judgment is founded. The court all agree that the judgment in the court below ought to be reversed, this court being unanimously of opinion that the court below erred in various of its rulings on the trial and on the question of the argument on the demurrer.

A majority of the court—the chief justice, and myself—agree in the judgment that the court below erred in overruling the demurrer, it being under the Code of Georgia, a person of color is eligible to office in Georgia. My brother Brown, however, and myself do not exactly agree upon the grounds upon which we base that judgment. The statutes of the State of Georgia require that the court shall agree in the decision which it makes—the principle upon which it puts the case which it decides; and as my brother Warner, whilst he agrees to the general judgment, puts his opinion upon one set of grounds, and my brother the chief justice puts his upon another, while I put mine upon a third, we are unable to agree upon a statement of the general principles upon which we put our judgment. Hence, under the statute, we shall each give a statement of the ground upon which we assent to the judgment of this court.

I will, therefore, now read the grounds upon which the whole court bases its decision, the ground upon which the majority of the court bases its decision, and I shall also announce the principles upon which I myself hold that the court below erred.

As this is a case of a good deal of public importance, involving not only the rights of the defendant and this plaintiff in error, but of a very large portion of the people of this State, and one in which there is a great deal of interest taken, I have reduced to writing, in detail, my opinion; and I will preface the reading of the judgment of the whole court and of the majority of the court with some written remarks, preferring to do that rather than make a parcel introduction.

Whatever may have been, under the Constitution of the United States, the abstract truth as to the political condition and status of the people of Georgia at the close of the late war, from the stand-point of a mere observer, it seems to me perfectly conclusive that the several branches of the present State government are shut up in the doctrine that the constitution and frame of civil government in existence in this State on the 1st of January, 1861, with all its disabilities and restrictions, was totally submerged in the great revolution which from 1801 to 1865 swept through the United States, and which brought with it a new and unique political condition, and placed the Southern States in a new and unique political rank and relationship.
1807, the ancient constitution of the State or any of its local or political disabilities or disqualifying distinctions upon persons of color, were of force, then the convention itself was illegal, the present state government is illegal, this court is illegally. I honor the chief justice has his proper place in the executive chair, my respected associate and myself are private citizens, the plaintiff in error is a slave, and the whole political history of the State, since the imprisonment of Governor Brown, in June, 1855, a gigantic illegality.

I am aware that a very large class of our most intelligent people entertain the same opinion. I must admit that it is impossible to mention the subject of correction.

1. The statement of a registrar of voters that he had marked a registered person's name with a "C," to denote that he was colored, and had posted his lists for some time in a public place, and that no application had been made to have the said "C" erased, is no evidence that the person shown that the original was duly executed. The statement by an examining physician that the person signed the paper after the entry on it was made by the physician, and with knowledge of the entry and with intent to adopt it, or that he used the paper after the entry was made with a knowledge that such entry was there. The convention met under the laws of the United States to form a constitution for a people without civil government.

2. Although a copy of a paper proven to be beyond the jurisdiction of the court is good secondary evidence of its contents, yet it must be shown that the original was duly executed.

3. An application for a life insurance, though signed by the applicant, upon the back of which was an entry by the examining physician that the applicant was a mulatto, is no evidence, unless it be proven that the person signed the paper after the entry on it was made by the physician, and with knowledge of the entry and with intent to adopt it, or that he used the paper after the entry was made with a knowledge that such entry was there.

4. The statement by an examining physician that he had at a certain time examined a person, and had then been of the opinion that the person signed the paper after the entry on it was made by the physician, and with knowledge of the entry and with intent to adopt it, or that he used the paper after the entry was made with a knowledge that such entry was there.
fact that he has one-eighth or more of such blood be mat· of opinion or not, query?

5. One who testifies that he has studied the science of ethnology may give his opinion as an expert on the question of race. Its weight is for the jury.

Pedigree, relationship, and race may be proven by evidence of reputation among those who know the person whose pedigree or race is in question.

The whole court agree upon these propositions.

The majority of the court agree upon this proposition: Where a quo warranto was issued charging that a person holding an office was ineligible when chosen because of his having in his veins one-eighth or more of African blood, and there was an answer denying the face, upon which denial there was an issue and a trial before the jury; held, that, by the Code of Georgia, a person having one-eighth or more of African blood in his veins is not ineligible to office in this State, and it was error in the court to overrule the demurrer and to charge the jury that if the plaintiff proved the defendant to have one-eighth or more of African blood he was ineligible to office in this State.

Whilst I agree that the Code of Georgia—the law of Georgia, as separate from the constitution—does make persons of color eligible to office, my opinion is that eligibility is guaranteed by the constitution of the State; and I announce these propositions as the general principles upon which my opinion is based:

1st. The constitution of Georgia, known as the constitution of 1868, is a new constitution, made by and formed for a people who at the time were by the facts of the case and by the laws of the United States without any legal civil government; and as the people of Georgia, without regard to past political distinctions, and without regard to distinctions of color, participated on equal terms in the election for the convention and in its composition and deliberations, as well as in the final ratification of the constitution it framed, in the construction of the constitution, and in the investigation of what rights it ensures or denies, such distinctions are equally to be ignored.

2d. The rights of the people of this State, white and black, are not granted to them by the constitution thereof. The object and effect of that instrument is not to give, but to restrain, deny, regulate, and guarantee rights; and all persons recognized by that constitution as citizens of this State have equal legal and political rights, except as otherwise expressly declared.

3d. It is the settled and uniform sense of the word "citizen," when used in reference to the citizens of the several States of the United States and to their rights as such citizens, that it describes a person entitled to every right, legal and political, enjoyed by any person in that State, unless there be some express exception, made by positive law, covering the particular person, or class of persons, whose rights are in question.

4th. Words used in a statute or constitution have their ordinary signification, unless they be words of art, when they have the sense placed upon them by those skilled in the art, or unless their meaning be defined and fixed by law; in which latter case the legal meaning must prevail.

6th. By the 184th and 185th sections of Irwin's Revised Code, it is expressly declared, that among the rights of citizens is the right to hold office; and that all citizens are entitled to exercise all their rights as such, unless expressly prohibited by law; and as the constitution of 1868 expressly adopts said Code as the law of the State, when that constitution uses the word "citizen," it uses it in the sense put upon it by the express definition of the Code it adopted.

6th. Article 1 and section 2 of the constitution of 1868 expressly declares that all persons born in the United States, or naturalized therein, resident in this State, are citizens of this State; and as the Code adopted by the convention in express terms declares that among the rights of citizens is the right to hold office, a colored person born in the United States, and resident in this State, is by that section of the constitution guaranteed eligibility to office, except when otherwise prohibited.

7th. Nor would the repeal of those sections of the Code or their alteration deprive a colored person of the right thus guaranteed, since it is a settled rule that it is not in the power of the legislature to divest a right or change a constitutional guaranty by altering the legal meaning of the word by which that guaranty was made.

8th. The right to vote involves the right to be voted for, unless otherwise expressly provided, since it is not to be presumed, without an express enactment, that the principal is of less dignity or rights than the agent.

9th. There being in the constitution of 1868 various special disqualifications of electors for particular offices, and four separate sections detailing disqualifications for any office, and a black skin not being mentioned as one of these disqualifications, under the rule that the expression, e., of one thing is the exclusion of others, persons of color electors are not disqualified from holding office.

10th. There never has been in this State, at any period of its history, any denial in terms of the right to vote or to hold office to colored persons, as such. By the old law, they were either slaves or free persons of color, and these rights were denied them, by declaring that they were not and could not be citizens of the State; and when article 1 section 2 of the constitution of 1868 recognized them as citizens, the right to vote and to hold office, except as otherwise provided by the constitution, was, etc., also guaranteed to them.

11th. Ineligibility to office involves not only the denial to the person claiming the place the right to be chosen, but, what is of far greater moment, the right of the selecting party to choose; and to make out a case of ineligibility there must be such a state of affairs as established not only the want of power to be chosen, but a denial of power in the selecting party to choose.

12th. The people of a State, in their collective capacity, have every right a political society
can have, except such as they have conferred upon the United States, or on some department of the State government, or who are expressly demed to themselves by their constitution; and as the right to select a public officer is a political right, the people, or that branch of the government clothed by the constitution with the power to choose, may select whomsoever it will, unless the right to choose a particular person or class of persons is expressly taken away by the constitution.

Chief Justice Brown then read from his written opinion, as follows:

The view which I take of the rights of the parties litigant in this case, under the Code of Georgia, renders it unnecessary for me to enter into an investigation of the question, whether the X1Vth amendment of the Constitution of the United States, or the second section of the first article of the constitution of Georgia, which in substance is identical with the X1Vth amendment, confers upon colored citizens the right to hold office. If the respondent in this case acquires the right to public office found in either of the said Constitutions, or in the Code of this State, it is sufficient for all the purposes of the case at bar, and entitles him to a reversal of the judgment of the court below, which was adverse to his right.

The third paragraph of the 4th article of the constitution of this State adopts, in subordination to the constitution of the United States and the laws and treaties made in pursuance thereof, and in subordination to the said constitution of this State, the "body of laws known as the Code of Georgia, and the acts amendatory thereof, which said Code and acts are embodied in the printed book known as Irwin's Code," "except so much of the said several statutes, Code, and laws, as may be inconsistent with the supreme law of the land recognized."

The Code, section 1646, classifies natural persons into four classes: 1st, citizens; 2d, residents; 3d, aliens; 4th, persons of color.

Section 46 of the Code declares that all white persons born in this State, or in any other State of this Union, who are or may become residents of this State with the intention of remaining herein; all white persons naturalized under the laws of the United States, and who are or may become residents of this State with the intention of remaining herein; all persons who have obtained a right to citizenship under former laws, and all children, wherever born, whose father was a citizen of this State at the time of the birth of such children, or in case of posthumous children at the time of his death, are held and deemed citizens of this State.

By the Code the distinction is therefore clearly drawn between citizens who are white persons and persons of color.

In other words, none are citizens under the "printed book known as Irwin's Code" but white persons. Having specified the class of persons who are citizens, the Code proceeds, in section 1648, to define some of the rights of citizens, as follows:

"Among the rights of citizens are the enjoyment of personal security, of personal liberty, private property and the disposition thereof, the elective franchise, the right to hold office, to appeal to the courts, to testify as a witness, to perform any civil function, and to keep and bear arms."

Section 1049 declares that "All citizens are entitled to exercise all their rights as such unless specially prohibited by law."

Section 1050 prohibits the exercise of the elective franchise or holding civil office.

Section 1051 prohibits minors from exercising civil functions till they are of legal age. Sections 1652 and 1653 prohibit certain criminals, and persons non compos mentis, from exercising certain rights of citizens.

Article 3, chapter 1, title 1, part 2, of the Code, defines the rights of the 4th class of natural persons, designated as persons of color, giving them the right to make contracts; sue and be sued, give evidence, inherit, purchase and sell property; and to have marital rights, security of person, estate, &c., embracing the usual civil rights of citizens, but does not confer citizenship. Thus the Code stood prior to its adoption by the new constitution.

As already shown, it was adopted in subordination to the constitution, and must yield to the fundamental law whenever in conflict with it. In so far as the Code had conferred rights on the colored race, there is no conflict and no repeal. The constitution took away no right then possessed by them under the Code, but it enlarged their rights, as defined in the Code, by conferring upon them the right of citizenship. It transferred them from the 4th class of natural persons, under the above classification, who were denied citizenship by the Code, to the 1st class, as citizens.

The 40th section of the Code limited citizenship to white persons. The constitution struck out the word white, and made all persons born or naturalized in the United States, and resident in this State, citizens, without regard to race or color. It so amended section 46 of the Code as greatly to enlarge the class of citizens; but it repealed no part of section 1648, which defines the rights of citizens.

It did not undertake to define the rights of a citizen. It left that to the legislature, subject to such guarantees as are contained in the constitution itself, which the legislature cannot take away. It declares expressly that no law shall be made or enforced which shall "abridge the privileges or immunities of citizens of the United States or of this State." It is not necessary to the decision of this case to inquire what are the "privileges and immunities" of a citizen which are guaranteed by the X1Vth amendment to the Constitution of the United States and by the constitution of this State. Whatever they may be, they are protected against all abridgment by legislation. This is the full extent of the constitutional guaranty. All rights of the citizen not embraced within these terms, if they do not embrace all, are subject to the control of the legislature.

Whether the "privileges and immunities" of the citizen embrace political rights, including the right to hold office, I need not now inquire. If they do, that right is guaranteed alike by the Constitution of the United States, and the constitution of Georgia, and is beyond the control.
of legislation. If not, that right is subject to the control of the legislature, as the popular voice may dictate; and in that case the legislature would have power to grant or restrict it at pleasure, in case of white persons as well as of persons of color. The constitution of Georgia has gone as far as the XIVth amendment has gone, but no further. An authoritative construction of the XIVth amendment by the Supreme Court of the United States upon this point would be equally binding as a construction of the constitution of the State of Georgia, which is in the same words.

Georgia has complied fully with the terms dictated by Congress in the formation of her constitution. She has stopped nothing short, and gone nothing beyond. The highest judicial tribunals of the United States will not doubtfully settle the meaning of the terms "privileges and immunities" of the citizen, which legislation cannot abridge; and the people of Georgia, as well as those of all the other States, must conform to, and in good faith abide by, and carry out, the decision. All the rights, of all the citizens of every State, which are included in the phrase "privileges and immunities," are protected against legislative abridgment by the fundamental law of the Union. Those not so embraced, unless included within some other constitutional guarantee, are subject to legislative action. These same rights which the XIVth amendment to the Constitution of the United States confers upon, and guarantees to, a colored citizen of the Union, are conferred upon and guaranteed to every colored citizen of Georgia, by the same amendment, and by the constitution of the State, made in conformity to the reconstruc tion acts of Congress.

Whatever may or may not be the privileges and immunities guaranteed to the colored race by the Constitution of the United States and of this State, it cannot be questioned that both constitutions make them citizens. And I think it very clear that the Code of Georgia, upon the judgment of the court below is erroneous, and I concur in the judgment of reversal.

DISSENTING OPINION OF JUDGE HIRAM WARNER.

The defendant is a person of color, having, as the record states, one-eighth of negro or African blood in his veins, who claims to be lawfully entitled to hold and exercise the duties of the office of clerk of the superior court of Chatham county, the description mentioned in the record, is legally entitled to hold office, unless they are prohibited by some provision found in the Code itself. I find no such prohibition in the Code affecting the rights of this respondent. I am, therefore, of the opinion that the judgment of the court below is erroneous, and I concur in the judgment of reversal.
and immunities of citizens, but it does not follow that all of these different classes of citizens are entitled to hold office under the public authority of the State because the privileges and immunities of citizens are secured to them. The State in this country, as the crown in England, is the fountain of honor and of office, and she who desires to employ any class of her citizens in her service is the best judge of their fitness and qualifications therefor. An office of the State, as we have shown, "hath to do with another's affairs against his will and without his leave," and such officer must have the authority of the State to perform these public duties against the will of the citizen and without his leave. This authority must be conferred upon the citizen by some public law of the State from that class of her citizens whose age and sex, or the want of the legal qualifications of the defendant has been made a citizen, but all the rights conferred upon citizens by the Code were conferred upon that class of persons only who are declared and recognized by the Code as citizens of the State at the time of its adoption. When the Code declares that it shall be the right of a citizen to hold office, such right is confined to that class of persons who are recognized and declared therein to be citizens of the State, and not to any other class of persons who might thereafter become citizens. So, where the Code declares that "all citizens are entitled to exercise all their rights as such, unless specially prohibited by law," it is applicable to that class of persons only who were declared to be citizens of the State at that time, and not to any other class of persons who might thereafter be made citizens of the State, such as Chinese, Africans, or persons of color. The truth is, that the public will of the State has never been expressed by any legislative enactment in favor of the right of the colored citizen to hold office in this State since they became citizens thereof. Although these several classes of persons might be made citizens of the State, with the privileges and immunities of citizens, still they could not legally hold office under the authority of the State until that right shall be conferred upon them by some public law of the State, subsequent to the time at which they became citizens, so as to include them in its provisions. The public will of the State, as to the legal right of that class of her citizens to hold office, has never been affirmatively expressed; but, on the contrary, when the proposition was distinctly made in the convention which formed the present constitui-
tion to confer the right upon colored citizens to hold office in this State, it was voted down by a large majority. (See Journal of Convention, p. 312.) So far as there has been any expression of the public will of the State as to the legal right of that class of citizens known as colored citizens, and since they became such, to hold office in this State, it is against that right now claimed by the defendant.

The insurmountable obstacle in the way of the defendant claiming a legal right to hold office in this State under the provisions of the Code is the fact that he was not a citizen of the State at the time of its adoption. The class of persons to which he belonged were not recognized by it as citizens, and therefore he is not included in any of its provisions or the right to hold office upon the class of citizens specified in the Code. The Code makes no provision whatever for colored citizens to hold office in this State; all its provisions apply exclusively to white citizens and to no other class of citizens.

The convention which framed the present State constitution, and declared persons of color to be citizens of the State, and a conferral of the right upon them to hold office, but declined to do so by a very decided vote of that body, and went before the people claiming its ratification upon the ground that colored citizens were not entitled to hold office under it; and there can be no doubt that the people of the State voted for its ratification at the ballot-box with that understanding.

But now it is contended that the defendant, though a colored person, is a citizen of the State and of the United States, and that no enabling act has ever been passed to allow a naturalized citizen to hold office in this State when he possessed the other requisite qualifications prescribed by law; that the defendant, having been made a citizen of the State, is entitled to hold office in the same manner as a naturalized citizen could do. The reply is, that naturalized citizens were white persons, and such had a common-law right to hold office—a right founded upon written constitution and statute law of the State. When, therefore, they are not specially prohibited from exercising a right which they never had under the common law right to hold office, unless specially prohibited by law, it must be shown affirmatively that they had previously enjoyed that right. If they cannot show their right to hold office in the State, either under the common law, the Constitution, or statutes of the State, the fact that they are not specially prohibited from exercising a right which they never had amounts to nothing, so far as investing them with the right to hold office is concerned.

When and where and by what public law of the State was the legal right to hold office there conferred on the colored citizens thereof? If this question cannot be answered in the affirmative, and the legal authority under which the right is claimed cannot be shown, then the argument that inasmuch as there is no special prohibition in the law against the right of colored citizens to hold office, fails to the ground. If there was no existing legal right to hold office to be prohibited, the fact that there is no prohibition does not confer such legal right. There was no legal necessity to prohibit that which did not exist.

It is not the business or duty of courts to make the laws, but simply to expound and enforce existing laws which have been prescribed by the supreme power of the State.

After the most careful examination of this question, I am clearly of the opinion that there is no existing law of this State which confers the right upon the colored citizens thereof to hold office in this State, the other cannot; and until the State shall declare by some legislative enactment that it is her will and desire that her colored citizens shall hold office under her authority, they cannot claim the legal right to do so, for we must not forget that the State is the fountain and parent of office, and may confer or refuse to confer the right to hold office upon any class of her citizens she may think proper and expedient.

When a new class of persons are introduced into the body politic of the State and made citizens thereof, who cannot claim a common-law right to hold office therein, it is incumbent on them to show affirmatively that such right has been conferred upon them by some public law of the State since they were made citizens thereof, then they may be permitted to have and enjoy such right. In other words, they must show the public law of the State enacted since they became citizens thereof, which confers the legal right claimed, before they can demand a judgment of the court in favor of such legal right.
office therein, and, consequently, that the defend­
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nant has no legal right to hold and exercise the
duties of the office which he claims under her
authority, and that the judgment of the court
below, overruling the demurrer, should be af­
firmed.

Intermarriage of White and Colored Persons in
Georgia.

Opinion of the Supreme Court of that State.
Charlotte Scott, plaintiff in error vs. The State of Geo­
pria, defendant in error. Indictment for adultery and
fornication, from Dougherty county.
Brown, C. J., delivering the opinion.
The record in this case presents a single ques­
tion for the consideration and adjudication of this court: Have white persons and persons of
color the right, under the constitution and laws
of Georgia, to intermarry, and live together in this State as husband and wife? The question is
distinctly made, and it is our duty to meet it fairly and directly in error.
The Code of Georgia, as adopted by the new
constitution, section 1707, forever prohibits the
marriage relation between the two races, and
declares all such marriages null and void.
With the policy of this law we have nothing
to do. It is our duty to declare what the law is, not to make law. For myself, however, I do
not hesitate to say that it was dictated by wise
statesmanship, and has a broad and solid fonn­
dation in enlightened policy, sustained by sound
reason and common sense. The amalgamation
of the races is not only unnatural, but is always
productive of deplorable results. Our daily ob­
servation shows us that the offering of these
unnatural connections are generally sickly and
devitalizing, and that they are inferior in physical
development and strength to the full blood of
either race. It is sometimes urged that such
marriages should be encouraged for the purpose
of elevating the inferior race. The reply is, that
such connections never elevate the inferior race
to the position of the superior, but they bring
down the superior to that of the inferior. They
are productive of evil and evil only, without any
con­
corresponding good.

I do not propose to enter into any elaborate dis­
cussion of the question of policy at this time, but
only to express my opinion after mature consid­
eration and reflection.
The power of the legislature over the subject­
matter, when the Code was adopted, will not, I
suppose, be questioned. The legislature cer­
tainly had as much right to regulate the marriage
relation, by prohibiting it between persons of
different races, as they had to prohibit it be­
tween persons within the levalitical degrees, or
between idiots. Both are necessary and proper
regulations. And the regulation now under con­sideration is equally so.

But it has been urged by the learned counsel
for the defendant, that the section of the Code
under consideration is in conflict with the
eleventh section of the first article of the con­
stitution of this State, which declares that "the
social status of the citizen shall never be the
subject of legislation."

In so far as the marriage relation is connected
with the social status, the very reverse is true.
That section of the constitution forever pro­
hibits legislation of any character regulating
or interfering with the social status.
It leaves social rights and status where it finds them. It prohibits the legislature from
repealing any laws in existence which protect
persons in the free regulation among themselves
of matters properly termed social, and it also
prohibits the enactment of any new laws on
that subject in future.

As illustrations, the laws in force when the
constitution was adopted left the churches in
this State free to regulate matters of social
status in their congregations as they thought proper. They could say who should enter their church edifices and occupy
seats, and in what order they should be classified
or seated. They could say that females should sit in one part of the church and males in another; and that persons of color should, if
they attended, occupy such seats as were set
apart for them. In all this they were protected
by the common law of this State. The new con­
stitution forever guarantees this protection, by
denying to the legislature the power to pass
any law withdrawing it or regulating the social
status in such assemblages.

And I may here remark, that precisely the
same protection is guaranteed to the colored
churches, in the regulation of social status in
their assemblages, which is afforded the whites.
Neither can ever intrude upon the other, or
interfere with social arrangements without their
consent.
The same is true of railroad and steamboat
companies and hotel keepers. By the law in
force when the constitution was adopted, they were obliged to furnish comforta­
ble and convenient accommodations, to the
extent of their capacity to accommodate, to all
who applied, without regard to race or color.
But they were not compelled to put persons of
different races or of different sexes in the same
cars or in the same apartments, or seat them at
the same table. This was left to their own dis­
cussion. They had power to regulate it accord­ing to their own notions of propriety, and to
classify their guests or passengers according to
race or sex; and to place them at hotels in dif­
f erent houses or different parts of the same house;
or on railroads, in different cars; or on steam­
boats, in different parts of the vessel; and to
give them their meals at different tables. When
they had made public these regulations, all per­
sons patronizing them were bound to conform to
them, and those who did not like their regula­
tions must seek accommodations elsewhere.
There was no law to compel them to group to­
gether, in social connection, persons who did
not recognize each other as social equals.

To avoid collisions and strife, and to preserve
peace, harmony, and good order in society, the
new constitution has wisely provided the legis­
lature from enacting laws compelling these com­
panies to make new social arrangements among
their patrons, or to disturb those in existence.
The law shall stand as it is, says the constitu­
tion, leaving each to regulate such matters as
they think best, and there shall be no legislative
interference. All shall be comfortably accommodated, but you shall not be compelled by law
to force social equality, either upon your trains,
your boats, or in your hotels.
The same remarks apply to the regulation of
social status among families, and to the social
intercourse of society generally.

Thus, in my opinion, is one of the wisest pro-
visions in the constitution, as it excludes from
the halls of the legislature a question which was
likely to produce more unprofitable agitation,
wrangling, and contention than any other subject
within the whole range of their authority.

Government has full power to regulate civil
and political rights, and to give to each citizen
of the State, as our Code has done, equal civil
and equal political rights, as well as equal pro-
tection of the law. But government has no
power to regulate social status. Before the laws
the Code of Georgia makes all citizens equal,
without regard to race or color; but it does not
create, nor does the law of the State attempt to
enforce, moral or social equality between the dif-
ferent races or citizens of the State. Such equal-
ity does not in fact exist and never can be.
The God of nature made it otherwise, and no human
law can produce it, and no human tribunal can
enforce it. There are gradations and classes
throughout the universe. From the tallest arch-
gel in heaven down to the meanest reptile
on earth moral and social inequalities exist, and
must continue to exist throughout all eternity.

While the great mass of the conquering people
of the States which adhered to the Union dur-
ing the late civil strife have claimed the right
to dictate the terms of settlement, and have
maintained in power those who demand that the people of the States lately in rebellion shall ac-
cord to the colored race equality of civil rights,
including the ballot, with the same protection
under the law which is offered the white race,
they have neither required of us the practice of
miscegenation, nor have they claimed for the
colored race social equality with the white race.
The fortunes of war have compelled us to yield
to the freedmen the legal rights above men-
tioned, but we have neither authorized nor legal-
ized the marriage relation between the races, nor
have we enacted laws or placed it in the power
of the legislature hereafter to make laws regard-
ing the social status, so as to compel our people
to meet the colored race on terms of social equa-

ty. Such a state of things could never be de-
sired by the thoughtful and reflecting portion of
the whole range of their authority.

As already stated, we are of the opinion that
the section of the Code which forbids intermar-
riages between the races is neither inconsistent
with, nor is it repealed by, the section of the con-
stitution now under consideration. It therefore
stands upon the statute-book of the State forever
prohibiting all such marriages, and declaring
them to be null and void.

Let the judgment of the court below be
affirmed.

Opinion of Attorney General Hoar as to the Ju-
risdiction of Military Commissions in Texas.

ATTORNEY GENERAL’S OFFICE,
May 31, 1869.
HON. JOHN A. RAWLINS,
Secretary of War.

SIR: Your letter of March 24, 1889, submit-
ting for my opinion as to proper action to be had
in the premises in the case of James Weaver, a

 citizen of Texas, who was tried before a military
commission appointed by the commanding gen-
eral of the fifth military district, under authority
of section 3 of the act of March 2, 1867, to pro-
vide for the more efficient government of rebel
States, and found guilty of murder and sentenced
to be hanged, the record having been forwarded
for the action of the President, as required by
section 4 of said act, and returned by him to
your department upon the 1st day of February
last, without any action upon the same, was re-
couneed on the 5th March last.

The grave importance of the questions in-
volving such a state of things could never be de-
sired by the thoughtful and reflecting portion of
the whole range of their authority.

While the great mass of the conquering people
of the States which adhered to the Union dur-
ing the late civil strife have claimed the right
to dictate the terms of settlement, and have
maintained in power those who demand that the people of the States lately in rebellion shall ac-
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have we enacted laws or placed it in the power
of the legislature hereafter to make laws regard-
ing the social status, so as to compel our people
to meet the colored race on terms of social equa-

ty. Such a state of things could never be de-
sired by the thoughtful and reflecting portion of
the whole range of their authority.
with which he was charged belonged entirely to the
civil courts of the State of Texas, and that he
would be unable to plead the finding of the
commission in bar in the district courts in Br.
troy county; thirdly, that before the date of the
order convening the commission he was under
indictment in civil courts and was under arrest
to await trial therein, and that the said indict-
ment for the same offence was still pending against
him; fourthly, because the district court of Bas-
troy county was fully organized and prepared to
pass upon all cases brought before it; fifthly, be-
cause he, the said Weaver, was a citizen, not con-
ected with the army of the United States, and
deceased was also a citizen. These exceptions
were overruled by the commission. The statute
of March 2, 1867, entitled "An act to provide for
the more efficient government of the rebel States,"
declares in its preamble that no legal State gov-
ernments or adequate protection for life or prop-
erty then existed in the rebel States, and that the
commission appointed for the purpose was enu-
merated, including among them the State of
Texas, and that it was necessary that peace and
good order should be enforced in said States until
to the exercise of military authority under the
Constitution in the Government of the United States,
and when peace is restored. The Constitution
has made no provision in terms for a rebellion of
person and property; to suppress insurrection,
and to punish, all disturbers of the public
order convening the commission he was under
indictment in civil courts, and was under arrest
to await trial therein, and that the said indict-
ment for the same offence was still pending against
him; fourthly, because the district court of Bas-
troy county was fully organized and prepared to
pass upon all cases brought before it; fifthly, be-
cause he, the said Weaver, was a citizen, not con-
ected with the army of the United States, and
deceased was also a citizen. These exceptions
were overruled by the commission. The statute
of March 2, 1867, entitled "An act to provide for
the more efficient government of the rebel States,"
declares in its preamble that no legal State gov-
ernments or adequate protection for life or prop-
erty then existed in the rebel States, and that the
commission appointed for the purpose was enu-
merated, including among them the State of
Texas, and that it was necessary that peace and
good order should be enforced in said States until
loyal and republican citizens of a State governments could not be
legally established; it is therefore enacted,
that said rebel States should be made into military
districts, and made subject to the military
authority of the United States, as therein pres-
cribed; that it should be the duty of the Presi-
dent to assign to the command of each of
said districts an officer of the army, and to detail
a sufficient military force to enable such officer
to perform his duties and enforce his authority
in the district to which he was assigned. The
5d and 4th sections of said act are as follows:
"SEC. 3. And be it further enacted, That it
shall be the duty of each officer assigned as
aforesaid to protect all persons in their rights
of person and property; to suppress insurrection,
disorder, and violence, and to punish, or cause
to be punished, all disturbers of the public
peace and criminals; and to this end he may
allow local civil tribunals to take jurisdiction
of and to try offenders; or, when in his judg-
ment it may be necessary for the trial of offend-
ers, he shall have power to organize military
commissions or tribunals for that purpose; and
all interference under the color of State author-
ity with the exercise of military authority under
this act shall be null and void.
"SEC. 4. And be it further enacted, That all
persons put under military arrest by virtue of
this act shall be tried without unnecessary de-
lay, and no cruel or unusual punishment shall
be inflicted; and no sentence of any military
commission or tribunal hereby authorized, affect-
ing the life or liberty of any person, shall be
executed until it is approved by the officer in
command of the district. And the laws and
regulations for the government of the army
shall not be affected by this act, except in so far
as they conflict with its provisions: Provided,
That no sentence of death under the provisions
of this act shall be carried into effect without
the approval of the President.
The act also provided that its provisions should
become inoperative when the States had adopted
constitutions approved by Congress and senators
and representatives were admitted therefrom;
and that until the people of said States should be
by law admitted to representation in Congress,
any civil governments which may exist therein
shall be deemed provisional governments, and to
inspect all public property, and to prohibit the
construction of armed forces in the States, and to
regulate their relations with the army of the United States.
In the language of the court, in the same case, all
persons residing within this territory, whose pro-
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regulate their relations with the army of the United States.
In the language of the court, in the same case, all
persons residing within this territory, whose pro-
party may be used to increase the revenues of the hostile power, are in this contest liable to be treated as enemies, though not foreigners. They have cast off their allegiance and made war on their Government, and are none the less enemies because they are traitors. Where all lawful governments have been extinguished by the rebellion on the theatre of active military operations, where war really prevailed, there is a necessity to furnish a substitute for the civil authority thus overthrown, to preserve the safety of the army and society; and as no power is left but the military, it is allowed to govern by martial rule until the laws can have their free course. The right to govern by military law under such circumstances was fully conceded in the opinion of the Supreme Court of the United States in ex parte Milligan, (4 Wall. p. 127.) The test is there suggested that the right to govern by military power depends upon the fact that the courts are actually closed, and that it is impossible to administer criminal justice according to law. But while the war to determine the right to govern by military power may be the only government in territory held by force of arms, the military commander may make use of such local tribunals already existing as he may find it convenient to employ in subjection to his paramount authority. It then remains to consider: First, whether the State of Texas has been, during rebellion, so deprived of all constitutional and lawful government as a State, and so in armed hostility to the Government of the United States, as to be subject to military law when possession of her territory was regained by the military power of the United States; and, secondly, whether the right to hold and govern the State by military power has terminated. To the first question there can be but one answer. In language of Chief Justice Chase, in Texas v. White et al., decided at the present term of the Supreme Court, no one has been bold enough to contend that, while Texas has been controlled by a government hostile to the United States, and in addition with a hostile Confederation waging war upon the United States, senators chosen by her legislature or representatives elected by her citizens, were entitled to seats in Congress, or that any suit instituted in her name would be entertained in this court. All admit that during this condition of civil war the right of the State as a member, and of her people as citizens, of the Union, was suspended. The government and the citizens of the State, refusing to recognize their constitutional obligations, assumed the character of enemies, and incurred the consequences of rebellion. The second question is one of more importance and difficulty. Having suppressed the rebellion as far as it was maintained by an armed force, it became the duty of Congress to re-establish the broken relations of the State with the Union; and the same authority which recognized the existence of the war is, in my judgment, the only authority having the constitutional right to determine when, for all purposes, the war has ceased. The rights of war do not necessarily terminate with the cessation of actual hostilities. I can have no doubt that it is competent for the nation to retain the territory and the people which have once assumed a belligerent character (within the grasp of war) until the work of restoring the relations of peace can be accomplished; that it is for Congress, the department of the national Government to which the power to declare war is intrusted by the Constitution, to determine when the war has so far ended that this work can be safely and successfully completed. The act of Congress of March 2, 1867, is, in my opinion, a legislative declaration that in Texas the war, which sprang from this rebellion, is not, to all intents and purposes, ended; and that it shall be held to continue until, in conformity with the legislative will, a State government republican in form and subordinate to the Constitution and laws of the United States, for which the act make provision, shall have been re-established. It is true that in several acts of Congress the suppression of the rebellion and the end of the war have in express terms or by implication been recognized, but it will be found on examination that these phrases have been used in regard to special subjects, which do not seem to me inconsistent with the proposition that for some purposes the rights of war are not ended; while, in respect to captured and abandoned property, a limitation of the right to commence suits in the Court of Claims has been fixed by statute, and for the purpose of settling the question of the pay of officers in the volunteer army the date of the President's proclamation declaring the insurrection at an end has been adopted to interpret the phrase "close of the war." It does not seem to me inconsistent with either of these enactments that Congress should declare that the States whose civil governments have been destroyed should continue under military authority until such governments could be restored. Every act of Congress is to be presumed to be constitutional unless the contrary plainly appears. It is to be also presumed that Congress will provide for the restoration, through constitutional government, of the rebellious States, as specifically as in its judgment the public safety will allow; but until civil authority is restored, and the rights of persons and property can be protected in the region which has been the theatre of war by organized governments; and before Congress by direction of Congress employ a military force to give that protection and preserve the peace would seem to be the only alternative with any degree of probability. It appears by the papers submitted that the trial of Weaver before the military commission was fairly and carefully conducted; and that the murder of which he was convicted was wanton and cruel. A freedman who had been at work for Weaver, having chosen to leave his employment to go to work for another man, went to him in a field near his house on that morning to ask for the wages which were due him. Weaver seized an ox-horn, beat him severely with that, and then sent his hired man to his house for a double barreled gun, loaded with buckshot, and on his return with it shot the freedman through the head, killing him instantly. There appears to have been neither provocation nor resistance; and this atrocious act was committed in the sight of the wife of the man murdered, who stood by her own door. The finding of the
commission has been approved by the military commander, and has been certified to be regular and proper by the Judge Advocate General. I find no reason in law for the President's withholding his approval. The papers which were sent me are returned herewith.

Very respectfully, your obedient servant.

E. R. Hoar, Attorney General.

XLVI.

STATE PLATFORMS OF 1869.*

CALIFORNIA, IOWA, MISSISSIPPI, OHIO, PENNSYLVANIA, VERMONT, VIRGINIA, WASHINGTON TERRITORY.

CALIFORNIA.

Republican, July 22, 1869.

Resolved, That the Republican party of California gives its earnest support to the administration of President Grant, and do hereby endorse the acts and policy of his administration. We recognize the earnest effort of the Government to secure an economical administration of its affairs, to reduce expenses, to honestly pay the national debt, to prevent population fraud upon the treasury, to enforce the collection of the revenue, and to cause the speedy restoration of public confidence in our financial strength and integrity.

2. That the negro question has ceased to be an element in American politics, and that the ratification of the XV th amendment to the Constitution ought to be followed by an act of universal amnesty and enfranchisement of the southern people.

3. That we regard with pride and satisfaction the evidences of an increasing immigration to this State of industrious and intelligent people from the Atlantic States and Europe, with whom we are anxious to share the benefits of a fruitful soil, a genial climate, and an advancing civilization; but, while giving preference to the immigration of people of our own race, we hold that unoffending emigrants from China to this State are entitled to full protection for their lives, liberty, and property, and due process of law to enforce the same, but we are opposed to Chinese sufrage in any form, and to any change in the naturalization laws of the United States.

4. That we recognize the power of the general Government to restrict or prevent Chinese immigration whenever the welfare of the nation demands such a measure, by terminating our commercial relations with China, but it should be considered that the adoption of a non-intercourse policy in respect to China surrenders to Europe the commerce of the empire of Asia. We believe that the general prosperity will be greatly enhanced by fostering commercial intercourse with Asia, and that the closing of our ports at this time against Chinese would be most injurious to the material interests of this coast, a reproach upon the intelligence of the American people, and contrary to the spirit of the age.

5. That the Republican party having ever had in its especial keeping the rights of labor and of the laborer, and removed them from the blighting curse of slavery, and inaugurated a new era, in which the wages of labor have greatly advanced, while the hours therefrom have been correspondingly diminished, claim to have originated in this State and steadily supported what is known as the "eight-hour law," the sound policy of which has been proclaimed by a Republican Congress, and by a proclamation of a Republican President made applicable to the public works of the United States.

6. That we endorse the action of the Senate of the United States in rejecting the so-called "Alabama treaty," and consider it the duty of the general Government to demand full reparation for the injuries inflicted by the British Government and her people upon our commerce during the late rebellion.

7. That we are in favor of imposing upon all kinds and classes of taxable property in the State an equal share of the burdens of taxation, and to that end favor the organization of a State board of equalization or review, that the inequalities now existing under the present system of assessment and collection of the State revenues may be avoided.

8. That we are opposed to grants of State aid to railroads, and are in favor of limiting taxation to the amount of revenues absolutely requisite to pay the actual expenses of the State Government, and to maintain the financial credit of the State.

9. That we hail with joy the return of peace, and the promising signs of an increasing development of the country and the permanent prosperity of the whole people. We earnestly invite the cooperation at the ballot-box of all who agree to the foregoing declarations, regardless of old party ties or previous differences of opinion upon the now settled questions of slavery, rebellion, reconstruction, and negro suffrage.

*It is deemed advisable to enlarge this chapter and volume by presenting all the State platforms. Such only are given as are of most significance and recent date.
Resolved, That the Democracy of California now and always confide in the intelligence, patriotism, and discriminating justice of the white people of this country to administer and control their government, without the aid of either negroes or Chinese.

2. That the Democratic party view with alarm the action of an unscrupulous majority in Congress in their attempts to absorb the powers of the executive and judicial departments of the federal Government, and to annihilate the rights and functions reserved to the State Governments.

3. That the subjection of the white population of the southern States to the rule of a mass of ignorant negroes, their disfranchisement, and the denial to them of all those sacred rights guaranteed to every man, an outrage and a wrong for which the history of free governments in modern times may be searched in vain to parallel.

4. That the Democratic party is opposed to the policy of lending the credit of the State and squandering the State property upon railway or other corporations, to the detriment of the public interests, and the overwhelming increase of the State debt and taxation.

5. That the Democratic party ever has been, is, now, and ever will be, the champion of the rights of the mechanic and workingman; that all the reforms having for their object the reduction of the hours of his labor, the enlargement of his privileges, and the protection of his personal liberty, have been demanded, enacted, and enforced by the Democracy; that we point with pride to the fact that in California it was the Democratic element in the legislature that passed and a Democratic governor that approved the eight hour law, and that we pledge ourselves to use our utmost exertions to carry the provisions of that law into full force and effect, as well as to labor in other directions for the cause of the sons of toil.

6. That we are opposed to the adoption of the proposed XVth amendment of the United States Constitution, believing the same to be designed, and if adopted, certain to degrade the right of suffrage; to ruin the laboring white man, by bringing untold hordes of pagan slaves (in all but name) into direct competition with his efforts to earn a livelihood; to build up an aristocratic class of oligarchs in our midst, created and maintained by Chinese votes; to give the negro and Chinaman the right to vote and hold office; and that its passage would be injurious to the best interests of our country, in direct opposition to the teachings of Washington, Adams, Jefferson, and the other founders of the republic; in flagrant violation of the plainest principles upon which the superstructure of our liberties was raised, subversive of the dearest rights of the different States, and a direct step toward anarchy and its natural sequence, the erection of an empire upon the ruins of constitutional liberty.

7. That the Democracy of California believe that the labor of our white population should not be brought into competition with the labor of a class of inferior people, whose living costs comparatively nothing, and who add nothing to the wealth of our churches, schools, societies, and social and political institutions.

8. That we arraign the Radical party for its profligacy, corruption, and extravagance in public expenditures; for its tyranny, extortion, and disfranchisement; for its contempt of constitutional obligations; for placing the city of Washington in the hands of semi-civilized Africans; and we particularly condemn the appointment of healthy and able-bodied negroes to office while the land is filled with capable white citizens who are suffering for the common necessities of life.

9. That we heartily endorse and approve of the manner in which the Democracy have administered the State government, and point with pride to the acts to protect the wages of labor, to lessen public and official expenses, and to the fact that, during the present State administration, the State debt has been reduced nearly $1,000,000, and taxation reduced from $1,000 to 97 cents.

10. That the so-called Alabama treaty having been rejected by the treaty-making power of the Government, the Democratic party, true to its record as the only political party which on such issues has uniformly proved itself faithful to our own country, will now, as heretofore, be found ready to sustain all measures demanded by the honest dignity and rights of the republic in its relations with all foreign Powers.

11. That all voters in the State of California who are opposed to the radical measures of Congress, including the proposed XVth amendment to the Constitution of the United States, and who are opposed to the appointment of negroes to office, be invited to unite with the Democracy in the coming contest.

12. That the Western Union Telegraph Company, which controls all the wires connecting the Atlantic with the Pacific, has, in instituting a tariff designed to give a virtual monopoly of eastern news to a few newspapers of one political party in this State, been guilty of a gross public wrong, has betrayed the trust confided to it, and effectively restricted the liberties of the press, and that its action in this regard calls loudly for such legislative interference as shall prohibit discriminations, prevent the use of the telegraph as a political engine, and make it, like the mails, free to all.

13. That Hon. Eugene Casserly, by his manly and statesmanlike course in the United States Senate, deserves the confidence of the people of the State of California.
2. That we insist upon a continuance of strict and close economy in all departments of our State government, in order to the maintenance of the happy and exceptional financial condition to which our State has attained under Republican rule.

3. That the means now in the State treasury, and which may become available, ought to be used for the purpose of defraying the necessary expenditures of the State government economically administered, and for no other purposes; and no State taxes, or only the minimum absolutely required, should be levied until such means are exhausted, to the end that the burden of taxation may be made as light as possible.

4. That we rejoice in the glorious national victory of 1863, which has brought peace and happiness and prosperity to our nation, and we heartily and cordially accept the opportunity presented by adopting the XVth amendment to the Constitution of the United States of making the principle national.

5. That the Republican party of Iowa, being among the first since the rebellion to incorporate in a State constitution the great principle of impartial suffrage, cordially accepts the opportunity presented by adopting the XVth amendment to the Constitution of the United States of making the principle national.

6. That the public expenditures of the national Government should be reduced to the lowest sum which can be reached by a system of the most rigid economy; that no money should be taken from the national Treasury for any work of internal improvement, or for the erection of any public buildings not clearly necessary to be made or erected until the national debt is paid or greatly reduced; that all the money that can be saved from the national revenue honestly collected should be applied to the reduction of the national debt, to the end that the people may be relieved from the burden of taxation as rapidly as practicable.

7. That we endorse and approve the policy which the present Secretary of the Treasury of the United States has pursued.

Democratic, July 14, 1869.

Whereas upon the eve of a political canvass the time-honored usage of our party requires that a platform of principles be announced for the government of those who may be elected to office: Resolved, That the Democratic party view with alarm the action of an unscrupulous majority in Congress, in their attempt to absorb the powers of the executive and judicial departments of the Government, and to annihilate the rights and functions reserved to the State governments.

2. That we favor a reform in the national banking system looking to an ultimate abolition of that pernicious plan for the aggrandizement of a few at the expense of the many.

3. That now, as in times past, we are opposed to a high protective tariff, and that we will use every effort to prevent and defeat that system of national legislation which would enrich a small class of manufacturers at the expense of the great mass of producers and consumers, and that we are in favor of such reforms in our tariff system as shall promote commerce with every nation of the world.

4. That the pretended trial, conviction, and execution of persons not belonging to the military or naval service of the United States, by military commission, is in direct conflict with the Constitution, and we denounce the same as unworthy of a free people, and disgraceful to the American Government.

5. That we demand no more, and will submit to nothing less, than the settlement of the Alabama claims according to the recognized rules of international law, and that we declare it to be the duty of the government to protect every citizen, whether naturalized or native, in every right of liberty and property throughout the world, without regard to the pretended claims of foreign nations to their allegiance.

6. That we are in favor of, and insist upon, an economical administration of the national and State Governments, that the people may be as speedily as possible relieved from the load of taxation with which they are now oppressed, and that the public officers should be held to strict accountability to the people for all their official acts.

7. That a national debt is a national curse, and that while we favor the payment of our present indebtedness according to the strict letter of the contract, we would rather repudiate the same than see it made the means for the establishment of an empire upon the ruins of constitutional law and liberty.

8. That in the opinion of this convention the so-called Maine liquor law, that now disgraces the statute-books of the State of Iowa ought to be repealed at the earliest possible moment.

The following resolutions were offered and rejected:

Resolved, That we are in favor of the repeal of the present prohibitory liquor law, believing it inadequate to accomplish the purposes designed by it, and as a substitute for the same we are in favor of the enactment of a stringent license law.

9. That we are opposed to the proposed XVth amendment to the Federal Constitution.

MISISSIPPI.

Republican, July 2, 1869.

The Republicans of Mississippi, in convention assembled, in a spirit of amity and peace toward their opponents, and of justice to themselves, make the following declaration of principles and policy:

1. Unfaltering devotion to the Union, first, last, and forever.

2. Faith in and fidelity to the principles, objects, and aims of the great national Republican party, with which and with the President and Congress we are in full accord and sympathy.


4. Full and unrestricted right of speech to all men, at all times and all places, with the most complete and unrestrained freedom of the ballot, including protection to citizens in the exercise of the suffrage.
5. A system of free schools which shall place the means of liberal education within the reach of every child in the State.

6. Reform of the iniquitous and unequal taxation and assessments which, discriminating against labor and laborers, have borne so unjustly and unequally upon the people.

7. That all men, without regard to race, color, or previous condition, are equal before the law; and that to be a freeman is to possess all the civil and political rights of a citizen, are not only enduring truths, but the settled and permanent doctrines of the Republican party.

8. This convention recognizes but two great national parties; that under the administration of the one, the material and industrial resources of the country will languish, whilst under the administration of the other, the material and industrial resources of the nation are not only improved but improved.

9. Recognizing as peculiarly American and republican the sentiment that the true basis of government is the "consent of the governed," which, in a republic, is expressed through the ballot-box, we, in the language of the Chicago platform, "favor the removal of the disqualifications and restrictions imposed upon the late rebels in the same measure as the spirit of disloyalty may die out, and as may be consistent with the safety of the loyal people," and we shall hail with unfeigned delight the day when the spirit of toleration now dawning upon Mississippi and ere long throughout these States shall be firmly established as to warrant the universal suffrage of all men, and the ancient principles he and it represent, will be respected, adopted, and adored. The magic words, "Let us 'have peace," possess a power, and have a mission, which will embrace the whole world, and will cease only with time.

10. That the present modified condition of public sentiment in this State renders it wise and expedient that the Republican party should embrace the opportunity which is to be presented in the approaching election of ratifying the new Constitution, so as to conform to the Constitution and laws as will effectually secure the means of liberal education within the reach of all children. A united nation and the principles of liberty owe their existence to-day to the firmness, patriotism, and wisdom of a Republican Congress.

11. That we favor the prompt ratification by this State of article XV as an amendment to the Constitution of the United States at the earliest practicable opportunity.

12. We declare for universal amnesty and universal franchise, the enlightened spirit of the age demanding that the fossil remains of proscription must be numbered with the things of the past.

13. The languishing condition of our State, notwithstanding the genial climate and productive soil, capable of sustaining and inviting a population of 15,000,000, reminds us not only of the necessity of reconstruction on a proper basis, but of the need of immigration. Schemes designed for class immigration, such as laborers only, or favoring one section, or country, or people, or portions of people, over another, on account of political or any other cause, will meet with no success; plans to increase our population must embrace all countries, climes, people, professions, politics, and religious beliefs; any plan stepping short of this, or limiting to give a practical, earnest, cordial welcome to settlers, without regard to race, color, locality, politics, or religion, will meet with merited failure, because indicating the existence of bigotry and intolerance.

14. We recognize in General Grant the chosen leader of our party and cause, as well as the representative man of the age. As Washington was in his time, so is Grant now "first in war, first in peace, and first in the hearts of his countrymen." Through his election, peace, toleration, and prosperity at last dawn upon Mississippi, and we, in the language of the Chicago platform, "favor the removal of the disqualifications and restrictions imposed upon the late rebels in the same measure as the spirit of disloyalty may die out, and as may be consistent with the safety of the loyal people," and we shall hail with unfeigned delight the day when the spirit of toleration now dawning upon Mississippi and ere long throughout these States shall be firmly established as to warrant the universal suffrage of all men, and the ancient principles he and it represent, will be respected, adopted, and adored. The magic words, "Let us 'have peace," possess a power, and have a mission, which will embrace the whole world, and will cease only with time.

15. We endorse and adopt his language, "that the question of suffrage is one which is likely to agitate the public so long as a portion of the citizens of the nation are excluded from its privileges," and, in his own words, we "favor such constitution and laws as will effectually secure the civil and political rights of all persons;" a consummation we devoutly desire at the earliest practicable moment, with safety and justice to all.

16. We confide in and will support Major General Adelbert Ames, military commander and governor of this State. We look to him as the representative of the President and of Congress, and regard him as able and firm in peace as in war; his quiet yet decided administration commands our confidence and admiration. For his order relieving the poor of a heavy burden and for the order abolishing the distinct color of the jury, and for the marked ability and independence displayed by him, the loyal people owes him a debt of gratitude which they can never repay, save by a life of like devotion to the principles he represents.

17. We look to Congress as the assembled wisdom and expressed will of the nation. At whatever cost of obloquy or his, we shall in the future, as in the past, yield our unwavering fidelity to the laws and policy of the national legislature. A united nation and the principles of liberty owe their existence to-day to the firmness, patriotism, and wisdom of a Republican Congress.

Conservative Republican, June 23.

Resolved, That this convention now proceed to organize the National Union Republican party of the State of Mississippi.

2. That we express our unflagging devotion to the great principles of the National Union Republican party, and that we look forward with hope and confidence to the early restoration of our State government in accordance with the reconstruction laws of the Congress of the United States.

3. That the repeated failures of all former and existing organizations to restore the State and to meet the requirements of the republican spirit
Political Manual. [Part IV.]

Resolved, That, as citizens of the nation, representing the republican sentiment of an honored commonwealth, we regard with sincere satisfaction the elevated views entertained by General Grant to the Republican party, and his policy, both foreign and domestic, and of his national administration, and pledge our cordial support to the measures inaugurated to insure conciliation, economy, and justice at home, and command consideration and respect abroad.

2. That we hail with the profoundest satisfaction the patriotic and constitutional declaration of President Grant, in his inaugural address, that while he will, on all subjects, have a policy to recommend to Congress, he will have none to enforce against the will of the people; a sentiment which assures the country of an executive administration founded on the models of the administrations of Washington and Madison, and that will insure to Congress the unrestricted exercise of its constitutional functions, and to the people their rightful control of the Government.

3. That the abolishment of slavery was a natural and necessary consequence of the war of the rebellion, and that the reconstruction measures of Congress were measures well adapted to effect the reconstruction of the Southern States and secure the blessings of liberty and a free government; and as a completion of those measures, and firmly believing in its essential justice, we are in favor of the adoption of the XVth amendment to the Constitution.

4. That the late Democratic general assembly, in its reckless expenditure of public money; its utter neglect of the business interests of the State by failing to enact the wise and much needed financial measures providing for the assessment and equalization of taxation prepared by the commission appointed by the preceding general assembly; its hostility to our benevolent and literary institutions; its failure to carry out the repeated pledges of the Democratic party to secure economy in the State; its extraordinary length of session in time of peace, resulting in an expense to the State amounting, for the pay of its members alone, to more than double that of the previous general assembly; its malignant attempts to disfranchise disabled soldiers and other citizens of the State; its attempt to take from the general Government the right to pursue, arrest, and punish those who violate the laws made in pursuance of the Constitution of the United States, and the vicious acts intended to destroy the power of the nation to preserve and protect the liberty and safety of its citizens, has shown the Democratic party to be an act of trust, confidence, and support of an honest and patriotic people.

5. That the Republican party of Ohio is in favor of a speedy establishment of a soldiers' orphans' home in Ohio, not only as an act of justice to the many poor and helpless orphans of deceased soldiers, but as a recognition of the patriotic services of their fathers in the late war, and for the purpose of redeeming the pledges made by all loyal people to protect the families of those who fought and fell in the cause of human liberty and right.

Ohio.

Republican, June 23, 1869.

Resolved, That as citizens of the nation, representing the republican sentiment of an honored commonwealth, we regard with sincere satisfaction the elevated views entertained by General Grant to the Republican party, and his policy, both foreign and domestic, and of his national administration, and pledge our cordial support to the measures inaugurated to insure conciliation, economy, and justice at home, and command consideration and respect abroad.

2. That we hail with the profoundest satisfaction the patriotic and constitutional declaration of President Grant, in his inaugural address, that while he will, on all subjects, have a policy to recommend to Congress, he will have none to enforce against the will of the people; a sentiment which assures the country of an executive administration founded on the models of the administrations of Washington and Madison, and that will insure to Congress the unrestricted exercise of its constitutional functions, and to the people their rightful control of the Government.

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5. That the Republican party of Ohio is in favor of a speedy establishment of a soldiers' orphans' home in Ohio, not only as an act of justice to the many poor and helpless orphans of deceased soldiers, but as a recognition of the patriotic services of their fathers in the late war, and for the purpose of redeeming the pledges made by all loyal people to protect the families of those who fought and fell in the cause of human liberty and right.

Democratic, July 7, 1869.

Resolved, That exemption from tax of over $2,500,000,000 Government bonds and securities is unjust to the people, and ought not to be tolerated, and that we are opposed to any appropriation for the payment of the interest on the public bonds until they are made subject to taxation.

2. That the claim of the bondholders, that the bonds which were bought with greenbacks, and the principal of which is by law payable in currency, should, nevertheless, be paid in gold, is unjust and extortionate, and if persisted in will force upon the people the question of repudiation.

3. That we denounce the high protective tariff which was designed only in the interests of the New England manufacturers; that said tariff is
STATE PLATFORMS.

also, by its enormous impositions on salt, sugar, tea, coffee, and the necessities of life, unendurable and oppressive, especially upon the people of the West, and that we demand its repeal and the substitution of another based upon revenue principles alone, upon the closest possible approximation to absolute free trade.

4. That the Democratic party of the United States have a reply been pre-eminent friends to the rights and interests of the laboring men; that they are in favor of a limited number of hours in all manufacturing workshops, the hours dictated by the labor and industrial congresses, and the public domain to actual settlers, without any cost, and are opposed to the donation of them to swindling railroad corporations; and that they are generally friendly to a system of measures advocated by the labor and industrial congresses, and we pledge the democratic party, if restored to power, to exercise their influence in giving them practical application.

6. That the late general assembly were called upon to make large and extraordinary appropriations to rebuild the burned insane asylum, to provide a reform school for girls, to construct a new blind asylum, to make appropriations to the relief fund for the maimed and disabled soldiers and their families.

7. That we hereby return our thanks to the fifty-eighth general assembly for their economical expenditure in the administration of the State government and the exposure of wholesale frauds in the creation of State buildings, whereby the people were swindled out of half a million dollars by the negligence of the Republican State officials and the dishonesty of others.

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10. That we denounce the national banking system as one of the worst out-growths of the bonded debt, which unnecessarily increases the burden of the people $50,000,000 annually, and that we demand its immediate repeal.

11. That the trial and sentence to death by military commissions of citizens of Texas not in the military or naval service, when the civil courts were in unobstructed exercise of their functions in that State and in the time of peace, are violations of the most sacred rights of American citizens guaranteed by their constitutions, State and federal, and deserve and should receive the earnest condemnation of every lover of liberty and constitutional government.

12. That the numerous palpable and high-handed usurpations of the party in power, their many public and private acts of tyranny, trampling under foot the civil law and the guarantees of the Constitution; their continuing to deprive sovereign States of representation in Congress, and to govern said States by military rule, show them to be the party of despotism, and unworthy the confidence and support of the free people.

13. That we extend the right hand of fellowship, and recognize as brethren in a common cause, all conservative men, not heretofore Democrats, who will unite with us in rescuing the Government from the unworthy hands into which it has fallen; and we pledge the united and cordial support of the two hundred and fifty thousand Democrats in Ohio, whom we represent, to the ticket nominated by this convention, and presented by us to the suffrages of the people of Ohio.

PENNSYLVANIA.

Republican, June 23, 1869.

Resolved, That we rejoice in the glorious national victory of 1863, which is bringing peace, happiness, and prosperity to us as a nation.

2. That we wholly approve of the principles and policy of the administration of General Grant, and we heartily endorse every sentiment contained in his inaugural address, and especially do hereby ratify and approve the late amendment proposed by Congress to the Constitution of the United States, known as the XIVth amendment.

3. That we have confidence that the general administration will wisely and firmly protect the interests and dignity of the nation in respect to our just claims against Great Britain, and that we endorse the action of the Senate in rejecting the Johnson-Clarke treaty, known as the Alabama claims.

4. That we heartily sympathize with the struggling peoples of all nations in their efforts to attain universal freedom and the invaluable rights of man.

5. That we confidently endorse the administration of General John W. Geary as wise, economical, and honest, and that it deserves, as it
has received the approval of the people of Pennsylvania; and we especially commend his uniform efforts to restrain the evils of special legislation.

6. That in Hon. Henry W. Williams, our candidate for the supreme court, we present a learned, pure, and patriotic jurist, who will adorn the high position to which we purport to elect him.

7. That we reiterate and affirm our adherence to the doctrine of protection, as proclaimed in the 9th resolution of the platform adopted at the State convention of March 7, 1868.

8. That we endorse this day nominated, and pledge to its hearty and cordial support.

Democratic, July 14, 1869.

Resolved, That the federal government is limited in power to the grants contained in the federal Constitution; that the exercise of doubtful constitutional powers is dangerous to the stability of the Government and the safety of the people, and the Democratic party will never consent that the State of Pennsylvania shall surrender her right of local self-government.

2. That the attempted ratification of the proposed 15th amendment to the federal Constitution by the Radical members of the last legislature, and their refusal to submit the same to a vote of the people, was a deliberate breach of their official duty and an outrage upon every citizen of the State, and the resolution making such ratification should be promptly repealed, and the amendment committed to the people at the polls for acceptance or rejection.

3. That the Democratic party of Pennsylvania is opposed to conferring upon the negro the right to vote, and we do emphatically deny that there is any right or power in Congress, or elsewhere, to impose negro suffrage upon the people of this State in opposition to their will.

4. That reform in the administration of the federal and State governments, and in the management of their financial affairs, is imperatively demanded.

5. That the efforts now being made for the amelioration of the condition of the laboring man have our most cordial co-operation.

6. That the legislation of the late Republican Congress outside of the Constitution, the disregard of the majority therein of the will of the people and the sanctity of the ballot-box in the exclusion from their seats in Congress of representatives clearly elected, the establishment of military governments in the States of the Union, and the overthrow of all civil governments therein, are acts of tyranny and usurpation that tend directly to the destruction of all republican government and the creation of the worst forms of despotism.

7. That our soldiers and sailors who carried the flag of our country to victory must be gratefully remembered, and all the guarantees given in their favor must be faithfully carried into execution.

8. Equal rights and protection for naturalized and native-born citizens at home and abroad. The assertion of American nationality, which shall command the respect of foreign powers and furnish an example and encouragement to people struggling for national integrity, constitutional liberty, and individual rights.

9. That the present internal revenue and taxing system of the General Government is grossly unjust, and means ought at once to be adopted to cause a modification thereof.

VERMONT.

Republican, June, 1869.

Resolved, That the Republican Union party of Vermont hereby affirms its adherence to the cardinal principles of the party, and especially the exclusion of traitors from the positions of public trust, the right of impartial suffrage, and the integrity of the public credit.

2. That we have confidence that the administration will wisely and firmly protect the interests and dignity of the nation in respect to our just claims against Great Britain, and that, in our judgment, we can afford to wait until her Majesty's government finds it for her interest to make settlement.

3. That we wholly approve the principles and policy of the administration of President Grant, and we particularly commend that point of his inaugural address wherein he declares, "I would protect the law-abiding citizen, whether of native or foreign birth, wherever his rights are jeopardized, or the flag of our country floats, and would protect the rights of all nations, demanding equal respect for our own."

4. That we cordially commend the State ticket this day nominated, and pledge to its support such a majority as shall show that Vermont takes no step backward in her Republican course.

Democratic, June 17, 1869.

Resolved, That the practical workings of the general Government, as administered by the opposition to the Democratic party, renew our zeal and love for the principles of our party.

2. That we are still in favor of a strict adherence to the Constitution of the United States, as the safeguard of the States.

3. That the Democracy, now as ever, make no distinction between citizens, whether of native or of foreign birth, and that we sympathize, as ever, with men of all nationalities striving for self-government.

4. That we are opposed to the present unequal system of taxation of the general Government, and to the corrupt and wasteful expenditures of the proceeds of such taxation.

5. That we prefer a system of government in accordance with the principles of the Democratic party rather than the present system of Radical rule.

6. That we will heartily support the nominees this day made.

VIRGINIA.

Republican, March 11, 1869.

Resolved, That the early restoration of the State of Virginia to the federal Union, clothed with all the rights and privileges of the most favored States, is required by the obligations which the Government owes to the several States,
is necessary to the just independence, dignity, and character of the State, is demanded by every consideration of patriotism as well as of interest; but that this return can now take place only under the authority of Congress, in the way pointed out by the reconstruction acts, and by the adoption, without change or modification, of the constitution soon to be submitted, to the people, and an election by them of their chosen officials, public servants, and representatives, which election ought to be immediately held, nor can it be longer delayed without serious danger of final disaster.

2. That the election of General Grant has given a new and awakened new confidence in the full and final triumph of the principles of the Republican party. The sublime truth that all men are free and equal will now become a living fact. All persons born in the United States and subject to its jurisdiction are citizens not only of the United States, but of any State in which they may choose to reside. Nor can any State deny to any citizen within its jurisdiction the equal protection of the laws, or the possession or enjoyment of any right or privilege on account of race, prior condition, or religious faith. We hail with gratitude the President's inaugural address, and will never cease to thank him for telling the American people that while suffrage is denied to a portion of the citizens of the nation there can be no peace. We pray Almighty God that the hope which is expressed for the ratification of the XVth article of amendment may be speedily realized, so that hereafter no State of the Union can deny to any citizen the blessed boon of suffrage on account of the accident of race or color. The insurrection of the slave was as much an act of retributive justice which has restored Sheridan and Reynolds to the commands from which they were removed by an unjust Executive, as it was an act of retributive justice which has restored Sheridan and Reynolds to the commands from which they were removed by an unjust Executive, because of their faithful discharge of duty, their noble homage to the rights of humanity, and the main enforcement of the reconstruction laws of Congress. In the act of justice we recognize another sure ground for confident hope, that tried fidelity to the Government is to be regarded as a virtue, and the support of the Union is to be honorable. We pledge to his administration, our earnest support. We invoke his best powers and wisest counsels to aid us in an early, just, and lasting reconstruction of our Commonwealth.

3. That the equality in rights of all the citizens, a just and proper provision for the education of the people through public schools open to all, a more equal system of taxation, a reasonable provision to secure a home, the necessaries of life, and the means of earning a support exempt from forced levy and sale; to preserve the pignight of the State by the payment of her honest debts; to do justice by making and impartially enforcing just and equal laws; to enrich the State by developing her resources; to secure an impartial jury trial by opening the jury-box to all the male citizens, without regard to race or color; to soothe animosities and strife by removing the causes of irritation; to create friendship and harmony by burying enmities; the right of the people to frame their own organic law, and the right of the real party of reconstruction to determine the manner in which, as well as the constitution and laws under which the State shall be restored, are all fundamental principles, vital to the success of the great work of reconstruction, and to which we now again pledge our faith, allegiance, and earnest support.

4. That no republican form of government can long exist, or be wisely administered, where a considerable portion of the people are disfranchised, and that the Republican party of the State of Virginia is not in favor of the creation of permanent disabilities, but pledges its influence and efforts to secure the removal of all the disabilities incurred by participation in the late rebellion from all the citizens of this State, who, accepting in good faith the results of the war by their acts and influence, shall cordially co-operate in an earnest effort for the restoration of the State under the reconstruction laws. We believe, however, that such disabilities should not be removed solely on the application of personal friends, nor from mere personal considerations, but because the individual himself possesses such superior claims for amnesty as are not possessed by the great body of disfranchised persons.

5. That the Republican party is the real party of reconstruction, that there can be no permanent and just restoration of the State excepting through its instrumentality. That all efforts for its destruction or demoralization are dangerous to the best interests of the State, fraught with most serious consequences to the Union men, and, if successful, must finally defeat reconstruction itself; to the preservation of the party and its organization in their integrity, to its most complete consolidation and its higher elevation, we pledge our utmost efforts, while at the same time we open its doors wide, and cordially invite to its support, labors, and triumphs all citizens who, rising above mere partizanship, and standing upon the higher level of statesmanship, embrace the common faith and vital principles which lie at the foundation of true reconstruction, just equality, lasting peace, and State and national prosperity.

6. That five members of the State central committee, including the chairman thereof, be requested to wait on General Canby, when he shall assume command of this district, and request him to issue such orders to his officers as shall secure the abrogation of all distinctions as to race, color, or previous condition, in the selection of juries.

Conservative,* April 29, 1869.
Whereas the people of the State of Virginia,
*These resolutions were reported April 23, by Messrs. Robert Quit, J. B. Baldwin, J. R. Edmunds, D. McMur-
That the government of the State and of the Union were formed by white men to be subject to their control, and that suffrage should be so regulated by the States as to continue the system under the control and direction of the white race, and that in the opinion of this convention the people of Virginia will sincerely co-operate with the men throughout the Union, of whatever name or party, who will labor to restore the constitutional Union of the States, and to continue its government and that of the States under the control of the white race;

And whereas the organization of the conservative party of the State of Virginia exists by authority of the said convention and the action of the people thereof;

And whereas the Congress of the United States have directed an election in this State to be ordered by the President, whose proclamation is daily expected, at which election the Underwood constitution is to be submitted to the people for ratification or rejection, and at the same time an election is to be held for State officers;

And whereas, for the purpose of consolidating and making effective the entire strength of the Conservative party in the State in opposition to the said constitution, the State executive committee and the county and city superintendents, in the exercise of the powers conferred on them on the day of, 1868, did nominate a State ticket: Now, therefore, be it

Resolved, That the declaration of principles unanimously adopted by the said convention, composed of the representatives of the white men of all parts of the State, is binding upon the body until it shall have been revoked or modified by another convention of equal powers, and this meeting has no right to abandon the same.

2. That this convention earnestly recommend to the people of Virginia to adhere steadfastly to the declaration of principles, and to the plan of organization adopted by themselves in convention assembled, and to continue to follow the leadership of their nominees, who have upheld the principles of their organization with such conspicuous gallantry and devotion.

3. That the clauses of the Underwood constitution proposed to be submitted to a separate vote are immaterial and insignificant compared to the leading features of that instrument: Universal negro suffrage, negro eligibility to office.

4. That the military rule of one of our own race, responsible to his superiors, is far preferable to the domination of an irresponsible multitude of ignorant negroes; and that, impressed by these considerations, we call upon all white men, whether native or adopted citizens, to vote down the constitution, and thereby save themselves and their posterity from negro suffrage, negro office-holding, and its legitimate consequence — negro social equality.

5. That even were an abandonment of the above-mentioned principles to be agreed on by this body, the 7th section of the election law, met in convention in this city in the month of

entitled an act authorizing the submission of the constitution, &c., to the vote of the people, holds the restoration of the State subject to the subsequent action of Congress, and that in this fact we find abundant reason to believe other conditions may be imposed upon us.

6. That the act in question imposes a condition precedent in the adoption of the 15th amendment, which is in violation of every principle of constitutional law, and should not of right be enforced by the people of Virginia.

Mr. Shackelford, of Culpeper, objected to both reports, and moved the following:

Resolved, That this meeting adjourn, to meet again ten days after the proclamation of the President of the United States fixing the day of voting on the constitution for Virginia and of election of officers under said constitution.

2. That the people of the counties of the State be requested to send delegates to the said adjourned meeting, to act in conjunction with the present representatives, for the purpose of considering and definitely acting upon the said constitution, or such modifications as may be presented by the President to the people for their adoption or rejection.

The convention refused, by yeas 21, nays 38, to lay the reports on the table; and, April 22d, the minority report having been withdrawn to give opportunity for the renewal of Mr. Shackelford's motion to postpone, the latter was debated and rejected by yeas 22, nays 24; after which, without a division, the majority report was adopted.

Resolved

Resolutions unanimously adopted by the Conservative convention, December 12, 1867, were as follows:

1. This convention doth recognize that, by the results of the late war, slavery has been abolished; and it doth declare that it is not the purpose or desire of the people of Virginia to reduce or subject again to slavery the people emancipated by the events of this war, and by the amendment to the Constitution of the United States.

2. This convention doth declare, that Virginia of right should be restored to her federal relations with the Government of the United States, and that it is not in the contemplation of the people of Virginia to violate or impair her obligations to the federal Union, but to perform them in good faith.

3. This convention doth solemnly declare and assert, that the people of Virginia are entitled to all the rights of freedom, and all the guarantees thereof, provided by the Constitution of the United States; and they insist on their unquestionable, and that the said Constitution, which all are sworn to support, does not justify the governing of Virginia by any power not delegated by it, nor ought she, under it, to be controlled by the federal Government, except in strict accordance with its terms and limitations.

4. This convention doth declare, in the language of a resolution adopted by a public meeting held at the Cooper- Institute, in the city of New York, "That the policy which continues to subject the people of ten States of the Union to an irresponsible government, carried on by military
December, 1867, and appointed an executive committee to organize the counties and cities of the State with a view to consolidate the strength of the conservative party; and whereas the State executive committee and city and county superintendents did in the month of May, 1868, meet in this city and nominate a State ticket for the suffrage of the People; and whereas said executive committee and superintendents have again assembled to consider the present state of affairs, and, each candidate, with patriotic desire to promote the prosperity and welfare of the State, has resigned his candidacy: Now, therefore, be it

Resolved, That this meeting accepts the said resignations of said candidates, and hereby expresses its high appreciation of their devotion to the best interests of the State, and of their zeal and ability in the discharge of those duties which their candidacy imposed on them.

2. That notwithstanding the accepted resignations of our nominees, the conservative voters of the State are urged to organize for the purpose of defeating such obnoxious provisions of power, is inconsistent with the express provisions of the Constitution of the United States, and is subversive of the fundamental ideas of our Government—of civil liberty; and the object for which this great wrong has been persisted in, as now being disclosed to the people of this country and to the world, to wit, to subject the white people of these States to the absolute supremacy, in their local governments and in their representation in the Senate and House of Representatives, of the black race, just emerged from personal servitude, is abhorrent to the civilization of mankind, and involves us and the people of the northern States, in consequence of surrendering one-third of the Senate and one-quarter of the House of Representatives, which are to legislate over us, to the domination of an organized class of emancipated slaves, who are without any of the training, habits, or traditions of self-government.

5. This convention, for the people of Virginia, doth declare that they disclaim all hostility to the black population; that they sincerely desire to see them advance in intelligence and national prosperity, and are willing to extend to them all liberal and generous protection. But that while, in the opinion of this convention, any constitution of Virginia ought to make all men equal before the law, and should protect the liberty and property of all, yet this convention doth distinctly declare, that the governments of the States and of the Union were formed by white men, to be subject to their control; and that the suffrage should still be so regulated by the States as to continue the federal and State systems under the control and direction of the white race.

6. That, in the opinion of this convention, the people of Virginia will sincerely co-operate with all men throughout the Union, of whatever name or party, who will labor to restore the constitutional union of the States, and to continue its government and those of the States under the control of the white race.

2. That notwithstanding the accepted resignations of said candidates, and hereby expresses its high appreciation of their devotion to the best interests of the State, and of their zeal and ability in the discharge of those duties which their candidacy imposed on them.

5. The principles of the Republican party, as declared by the last National Republican convention at Chicago, meet with our hearty approval, and adherence thereto by the national, State, and territorial legislatures, will secure the peace and prosperity of our country.

2. That we recognize the great principles laid down in the immortal Declaration of Independence as the true foundation of democratic government, and we hail with gladness every effort toward making these principles a living reality on every inch of American soil.

3. That we regard with great pride and satisfaction the accession of the wise, efficient, and victorious leader of the American army, General Grant, to the high and honorable position of President of the United States, and confidently rely upon the earnest co-operation of the different branches of the Government for the enactment and enforcement of such measures as shall secure the rights and liberty of every American citizen, upon principles of justice and equality, and that respect for the laws by the people that will insure the peace and progress of the entire country.

4. That the interests of Washington Territory can best be promoted by the election of an able Republican representative of our people as delegate to Congress, who will exert himself to obtain the fostering care and material aid of the general Government for our territory, and secure the just rights of each and all of our citizens, and who, as opportunity offers, will make known to the people of the States, by public addresses, the great advantages and inducements our territory presents to capital and population.

5. That a system of internal improvements in our territory should receive the encouragement and support of the general Government, in order that our important resources may be developed and the prosperity of the country promoted.

WASHINGTON TERRITORY.

Republican.
Among these internal improvements the construction of the Northern Pacific, Columbia River and Puget Sound, and Walla Walla and Columbia River railroads are of great and paramount importance, and their early completion highly necessary for the interests of not only this Territory, but also those of the entire country.

6. That the nominees of this convention can, and by the hearty and united efforts of the Union Republican party will, be triumphantly elected, and to that end all personal preferences and prejudices should be waived for the general good, and the present as well as future success of the Republican party and its principles be thereby effectually maintained.

Democratic.

Resolved, That the Democracy of Washington Territory rely upon the justice and patriotism of the American people for the ultimate triumph of democratic principles, which alone can effect the full and complete restoration of the American Union, and restore to the people and the States respectively their rights under the Constitution.

2. That this Government was founded by white men, and that we are opposed to the extension of the elective franchise or citizenship to negroes, Indians, or Chinamen.

3. That the recent attempt on the part of the Radical party in Congress to disfranchise the people of the Territory indicates a purpose in that party to destroy the liberties of the people.

4. That we are opposed to the proposed XVth amendment of the Constitution of the United States.

5. That the exclusion of any State from representation in Congress in time of peace is a dangerous assault upon the liberties of the people, in violation of the principles of our Union, and subversive of the rights of the Constitution.

6. That we are opposed to the present system of Government taxation, and are in favor of raising the necessary revenue for Government purposes by an ad valorem tax on the entire imports and property of the country.

7. That we favor the construction of railroads, the development of the vast resources of our Territory, and believe that Government should aid the construction of the same, and we acknowledge the important services rendered to our Territory in projecting the North Pacific railroad by the late I. I. Stevens.

XLVII.

VOTES OF STATE LEGISLATURES ON THE PROPOSED XVTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

Alabama.

[Not yet voted.]

Arkansas.

SENATE, March 13, 1869.

YEAS—Messrs. Barber, Boldin, V. Dell, Evans, Hadley, Harrison, Hunt, Hemingway, Keaton, Mallory, Martin, Mason, Pugh, Rogers, Sarber, Snyder, Vance, Wheeler, Young—19.

NAYS—Messrs. Sanders, Ray—2.

HOUSE OF REPRESENTATIVES, March 15, 1869.


NAYS—0.

California.

[Not yet voted.]

Connecticut.

SENATE, May 7, 1869.


Nor Voting—Edward M. Sheldon, James S. Taylor—2.

HOUSE OF REPRESENTATIVES, May 13, 1869.

YEAS—Messrs. Henry Woodford, Henry Sage, Albert C. Raymond, James F. Comstock, Daniel Phelps, Caleb Leavitt, George S. Miller, Rufus Stratton, Thomas Cowles, Samuel Q. Porter,
VOTES OF LEGISLATURES.


HousE, June 11, 1869.


HousE, June 11, 1869.


HousE, June 11, 1869.


HousE, June 11, 1869.


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HousE, June 11, 1869.


HousE, June 11, 1869.


HousE, June 11, 1869.


HousE, June 11, 1869.


Subsequently, March 16, a substitute ratifying the amendment was offered and adopted by the above vote. Then they vote "aye," otherwise "no." March 16 this vote was recorded by 62 yeas to 60 nays. Subsequently, March 18, a substitute ratifying the amendment was offered and adopted by the above vote.


*HOUSE OF REPRESENTATIVES, March 18, 1869.


HOUSE OF REPRESENTATIVES, March 5, 1869.


Not Voting—Henry Dresser, Henry Green.

*HOUSE OF REPRESENTATIVES, May 14, 1869.


*HOUSE OF REPRESENTATIVES, May 14, 1869.

YEAS—Messrs. George A. Buskirk, (Speaker.)

*On this day a message from the governor announced the resignations of the following members of the House:


[Part IV.}
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IOWA

SENATE, February 27, 1869.


NAYS—[Not yet voted.]

ABSENT AND NOT VOTING—0.

HOUSE OF REPRESENTATIVES, February 27, 1869.


KENTUCKY.

SENATE, March 12, 1869.


HOUSE OF REPRESENTATIVES, March 11, 1869.

YEAS—Robert Bird, Alexander Bruce, Dempsey King, Zachariah Morgan, Hiram S. Powell—5.


The vote actually taken was on a joint resolution to reject the amendment; but I have made the record to correspond in form with the other States, in which the question was on ratifying.

Conservative.
White, James A., Wilson, Samuel M., Weather, J.

Po political Manual, Part IV.

Louisiana.

MARCH 1, 1869.


House of Representatives, March 1, 1869.


Not yet voted.

Malone.

Senate, March 11, 1869.


Nay—Mr. Moses R. Mathews—1.

House, March 11, 1869.


Maryland.

[Not yet voted.]

Massachusetts.

Senate, March 9, 1869.

VOTES OF LEGISLATURES.


Nays—Messrs. Benjamin Dean, Alonzo M. Giles—2.

HOUSE OF REPRESENTATIVES, March 12, 1869.


*Not Voting—33.

Michigan.

SENATE, 1869.


HOUSE OF REPRESENTATIVES, 1869.


*Not Voting—39.

Michigan.
Thompson, George Vowles, John Wagner, John Walker, Jacob Walton, Edgar B. Ward, Luther Westover, Hubert G. Williams, James A. Williams, Jonathan A. Woodman, (Speaker) Samuel W. Yawkey—64.


Minnesota.

[Not yet voted—the legislature declining to act upon a telegram, and adjourning prior to receipt of an official copy of proposed amendment.]

Mississippi.

[Not yet voted.]

Missouri.

SENATE, March 1, 1869.


Not Voting—George W. Elwell, John C. Heman.

HOUSE OF REPRESENTATIVES, March 1, 1869.


[Not yet voted.]

Nebraska.

SENATE, March 1, 1869.


HOUSE OF REPRESENTATIVES, March 1, 1869.


New Hampshire.

*SENATE, 1869.

HOUSE OF REPRESENTATIVES, 1869.


*Adopted the amendment, but returns not received in time for insertion.

New Jersey.

[Slate in the session, the Senate, by a party vote, passed a resolution postponing all action on the amendment to the third Tuesday of January, 1870—the Republicans voting no. The House did not act on the resolution.]

New York.

Senate, April 14, 1869.


House, March 17, 1869.


North Carolina.


House, April 1, 1869.


The vote actually taken was on a joint resolution to reject, but I have made the record correspond with other States, and stated it as if the motion had been to ratify.
VOTES OF LEGISLATURES.

Rhode Island.

SENATE, May 27, 1869.


HOUSE OF REPRESENTATIVES, May 29, 1869.

Vote on postponing the question till the January session.


South Carolina.

SENATE, March 6, 1869.


NAY—Mr. Joel Foster—1.

HOUSE OF REPRESENTATIVES, March 11, 1869.


House of Representatives, March 3, 1869.


### XLVIII.

**STATISTICAL TABLES.**

**PRESIDENTIAL ELECTION RETURNS.—NATIONAL DEBT STATEMENT.**

*Electoral and Popular Votes for President of the United States for the Term Commencing March 4, 1869.*

<table>
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</tbody>
</table>

*The whole number of electors to vote for President and Vice President, including electors of Georgia, is 294, of which a majority is 147; and the whole number, excluding those of Georgia, is 285, of which a majority is 143.*


7 For Vice President, Schuyler Colfax, of Indiana, received 214 electoral votes; and F. P. Blair, Jr., of Missouri, 71 votes, excluding the vote of Georgia, or 80 including it.

8 Democratic majorities.

9 No vote.

10 By legislature.
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</thead>
<tbody>
<tr>
<td>Character of Issue.</td>
<td>Bonds</td>
<td>Bonds</td>
<td>Bonds, 1861</td>
<td>Bonds, (Oregon war,) 1861</td>
<td>Bonds, 1861</td>
<td>Bonds, (5-20's)</td>
<td>Bonds, (5-20's)</td>
<td>Bonds, (5-20's)</td>
<td>Bonds, (5-20's)</td>
<td>Bonds, (5-20's)</td>
<td>Bonds, (5-20's)</td>
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<tr>
<td>Rate of Interest.</td>
<td>5 per cent</td>
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</tr>
<tr>
<td>Aggregate of debt bearing coin interest.</td>
<td>$20,000,000</td>
<td>$7,022,000</td>
<td>$18,415,000</td>
<td>$945,000</td>
<td>$186,317,500</td>
<td>$514,771,600</td>
<td>$75,000,000</td>
<td>$194,507,300</td>
<td>$3,882,500</td>
<td>$125,561,300</td>
<td>$203,327,250</td>
<td>$332,908,950</td>
</tr>
</tbody>
</table>

**STATEMENT OF THE PUBLIC DEBT OF THE UNITED STATES—JULY 1, 1869.**

<table>
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<tr>
<th>When Payable.</th>
<th>January and July</th>
<th>January and July</th>
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<td>When Payable.</td>
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<td>When Payable.</td>
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</table>

**Notes:**
- Bonds are redeemable after 5 years and payable 20 years from March 1, 1861.
- Bonds are redeemable after 5 years and payable 20 years from November 1, 1864.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1865.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1867.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1868.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1869.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1870.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1871.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1872.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1873.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1874.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1875.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1876.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1877.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1878.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1879.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1880.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1881.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1882.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1883.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1884.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1885.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1886.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1887.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1888.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1889.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1890.
- Bonds are redeemable after 5 years and payable 20 years from July 1, 1891.
### STATEMENT OF THE PUBLIC DEBT OF THE UNITED STATES, JULY 1, 1869.—Continued.

Debt on which Interest has ceased since maturity.

<table>
<thead>
<tr>
<th>Authorizing Acts</th>
<th>Character of Issue</th>
<th>Rate of Interest</th>
<th>Amount outstanding</th>
<th>When Redeemed or Payable</th>
<th>Accrued Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 13, 1835.</td>
<td>Bonds</td>
<td>6 per cent.</td>
<td>$2,000 00</td>
<td>Matured December 31, 1852</td>
<td>$200 00</td>
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<tr>
<td>January 25, 1837.</td>
<td>Bonds</td>
<td>7 per cent.</td>
<td>$7,000 00</td>
<td>Matured December 31, 1857</td>
<td>$700 00</td>
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<tr>
<td>March 14, 1845.</td>
<td>Bonds</td>
<td>6 per cent.</td>
<td>$6,400 00</td>
<td>Matured July 1, 1846, (4 months' Interest)</td>
<td>$640 00</td>
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<tr>
<td>September 30, 1847.</td>
<td>Treasury notes, 5 to 6 per cent.</td>
<td>$500,000 00</td>
<td>Matured at various dates</td>
<td>$5,000 00</td>
<td></td>
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<tr>
<td>December 22, 1855.</td>
<td>Treasury notes, (2 years)</td>
<td>6 per cent.</td>
<td>$2,000 00</td>
<td>Matured April and May, 1856</td>
<td>$200 00</td>
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<tr>
<td>July 17, 1857.</td>
<td>Treasury notes, (1 year)</td>
<td>5 per cent.</td>
<td>$5,000 00</td>
<td>Matured August 17 and October 1, 1868</td>
<td>$500 00</td>
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<tr>
<td>March 6, 1860.</td>
<td>Treasury notes, (6 years)</td>
<td>6 per cent.</td>
<td>$500,000 00</td>
<td>Matured August 17 and October 1, 1868</td>
<td>$5,000 00</td>
</tr>
<tr>
<td>March 3, 1863.</td>
<td>Certificates of Ind.</td>
<td>6 per cent.</td>
<td>$1,400,000 00</td>
<td>Matured August 17 and June 15, 1868</td>
<td>$14,000 00</td>
</tr>
</tbody>
</table>

Aggregate of debt on which interest has ceased since maturity.

|                      | Demand notes       | No interest | $120,605 50 |
|                      | U.S. legal. notes  | No interest | $438,319 80  |
|                      | Postal currency    | No interest | $1,623,017 73 |
|                      | Fractional cur.    | No interest | $2,000 00    |
|                      | Cert. for gold dep. | No interest | $14,000 00   |

Aggregate of debt bearing no interest.

|                      | $410,889 92  |
STATEMENT OF THE PUBLIC DEBT OF THE UNITED STATES, JULY 1, 1869.—Continued.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount outstanding</th>
<th>Interest</th>
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</thead>
<tbody>
<tr>
<td>Debt bearing interest in coin, viz:</td>
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<td></td>
</tr>
<tr>
<td>Bonds at 6 per cent., issued before March 3, 1864</td>
<td>$22,537,000 00</td>
<td></td>
</tr>
<tr>
<td>Bonds at 6 per cent., (1864-) issued under act of March 3, 1864</td>
<td>$165,077,000 00</td>
<td></td>
</tr>
<tr>
<td>3% Bonds, at 4 per cent.</td>
<td>$1,052,934 00</td>
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<tr>
<td>Total debt bearing interest in coin</td>
<td>$2,107,930,600 00</td>
<td></td>
</tr>
<tr>
<td>Debt bearing interest in lawful money, viz:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Certificates, 3 per cent. interest</td>
<td>$4,116,000 00</td>
<td></td>
</tr>
<tr>
<td>Navy pension fund, 3 per cent. interest</td>
<td>$160,000 00</td>
<td></td>
</tr>
<tr>
<td>Total debt bearing interest in lawful money</td>
<td>$66,120,000 00</td>
<td></td>
</tr>
<tr>
<td>Debt bearing no interest, viz:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Demand and legal tender notes</td>
<td>$20,863,412 00</td>
<td></td>
</tr>
<tr>
<td>Postal and fractional currency</td>
<td>$10,000,000 00</td>
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<tr>
<td>Certificates of said deposited</td>
<td>$12,000,000 00</td>
<td></td>
</tr>
<tr>
<td>Debt on which interest has ceased since maturity</td>
<td>$3,000,000 00</td>
<td></td>
</tr>
<tr>
<td>Total debt—Principal outstanding</td>
<td></td>
<td></td>
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<tr>
<td>Interest accrued, $18,569,493 79, less amount of interest paid in advance, $1,122,182</td>
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<td></td>
</tr>
<tr>
<td>Total debt—Principal and Interest</td>
<td></td>
<td></td>
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### Statement of the Public Debt of the United States, July 1, 1869—Continued.

**Events Issued to the Union Pacific Railroad Company and Branches, Interest Payable in Legal Money**

<table>
<thead>
<tr>
<th>Authorizing Acts</th>
<th>Character of Issue</th>
<th>Rate of Interest</th>
<th>Amount Outstanding</th>
<th>When Redeemable or Payable</th>
<th>Interest Payable</th>
<th>Interest Paid by United States</th>
<th>Interest Paid by Reorganization of Funds, if any</th>
<th>Balance of Interest Paid by United States.</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 1862, and July 3, 1862.</td>
<td>Bonds, (Union Pacific Co.)</td>
<td>6 per cent.</td>
<td>$25,998,000.00</td>
<td>Payable 30 years from date.</td>
<td>$918,394.22</td>
<td>$1,313,765.52</td>
<td>$982,463.11</td>
<td>$3,310,053.25</td>
</tr>
<tr>
<td>July 1, 1862 and July 3, 1864.</td>
<td>Bonds, (Union Pacific, Eastern Division.)</td>
<td>6 per cent.</td>
<td>6,333,000.00</td>
<td>Payable 30 years from date.</td>
<td>60,089.49</td>
<td>420,969.32</td>
<td>546,969.32</td>
<td>933,329.99</td>
</tr>
<tr>
<td>July 1, 1862 and July 3, 1864.</td>
<td>Bonds, (Sioux City and Pacific.)</td>
<td>6 per cent.</td>
<td>1,628,320.00</td>
<td>Payable 30 years from date.</td>
<td>104,493.56</td>
<td>1,259,652.75</td>
<td>1,474,152.75</td>
<td>3,906,542.75</td>
</tr>
<tr>
<td>July 1, 1862 and July 3, 1864.</td>
<td>Bonds, (Central Pacific Co.)</td>
<td>6 per cent.</td>
<td>2,362,000.00</td>
<td>Payable 30 years from date.</td>
<td>236,493.56</td>
<td>2,992,666.63</td>
<td>3,310,053.25</td>
<td>8,665,323.48</td>
</tr>
<tr>
<td>July 1, 1862 and July 3, 1864.</td>
<td>Bonds, (Central Pacific, Union Pacific, and Pike's Peak.)</td>
<td>6 per cent.</td>
<td>20,427,000.00</td>
<td>Payable 30 years from date.</td>
<td>2,000,000.00</td>
<td>26,000,000.00</td>
<td>27,665,323.48</td>
<td>100,000,000.00</td>
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<tr>
<td>July 1, 1862, and July 3, 1864.</td>
<td>Bonds, (Western Pacific.)</td>
<td>6 per cent.</td>
<td>320,000.00</td>
<td>Payable 30 years from date.</td>
<td>20,000.00</td>
<td>240,000.00</td>
<td>278,000.00</td>
<td>726,665.99</td>
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**Total Issued.................................................................................................................. $68,809,080.00**

Interest paid by United States: $3,906,542.75

Interest paid by Reorganization of Funds: $8,665,323.48

Balance of Interest Paid by United States: $100,000,000.00
XLIX.

MISCELLANEOUS MATTERS.

Letter from General Sherman.

THE SURRENDER OF GENERAL JOS. E. JOHNSTON.

To the editor of the Tribune.

Sir: In your issue of yesterday is a notice of Mr. Healy's picture, representing the interview between Mr. Lincoln, General Grant, Admiral Porter, and myself, which repeats substantially the account published some time ago in Wilkes' *Spirit of the Times* explanatory of that interview, and attributing to Mr. Lincoln himself the paternity of the terms to General Johnston's army at Durham, in April, 1865.*

I am glad you have called public attention to the picture itself, because I feel a personal interest that Mr. Healy should be appreciated as one of our very best American artists. But some friends here think by silence I may be construed as throwing off on Mr. Lincoln the odium of those terms. If there be any odium, which I doubt, I surely would not be willing that the least show of it should go to Mr. Lincoln's memory, which I hold in too much veneration to be stained by anything done or said by me. I understand that the substance of Mr. Wilkes's original article was compiled by him after a railroad conversation with Admiral Porter, who was present at that interview, as represented in the picture, and who made a note of the conversation immediately after we separated. He would be more likely to have preserved the exact words used on the occasion than I, who made no notes then or since. I cannot now even pretend to recall more than the subjects touched upon by the several parties, and the impression left on my mind after we parted. The interview was in March, nearly a month before the final catastrophe, and it was my part of the plan of operations to move my army, reinforced by Schofield, then at Goldsboro', North Carolina, to Burkeville, Virginia, when Lee would have been forced to surrender in Richmond. The true move left to him was a hasty abandonment of Richmond, join his forces to Johnston's, and strike me in the open country. The only question was, could I sustain this joint attack till General Grant came up in pursuit? I was confident I could; but at the very moment of our conversation General Grant was moving General Sheridan's heavy force of cavalry to his extreme left to prevent this very contingency. Mr. Lincoln, in hearing us speak of a final bloody battle, which I then thought would fall on me near Raleigh, did express, more than once, that blood enough had already been shed, and he hoped that the war would end without any more. We spoke of what was to be done with Davis, other party leaders, and the rebel army; and he left me under the impression that all he asked of us was to disperse these armies, and get the soldiers back to their homes anyhow, the quicker the better, leaving him free to apply the force of civil law. His (Mr. Lincoln's) course was clearly left upon my mind the impression, warranted by Admiral Porter's account, that he had long thought of his course of action when the rebel armies were out of his way, and that he wanted to get civil governments reorganized at the South, the quicker the better, and strictly confining all with our general system.

I had been absent so long that I presumed, of course, that Congress had enacted all the laws necessary to meet the event of peace so long expected, and the near approach of which must then have been seen by the most obtuse, and all I aimed to do was to remit the rebel army surrendering to me to the conditions of the laws of the country as they then existed. At the time of Johnston's surrender at Durham, I drew up the terms with my own hand. Breckinridge had nothing at all to do with them more than to discuss their effect, and he knew they only applied to the military, and he forthwith proceeded to make his escape from the country; a course that I believe Mr. Lincoln wished that Mr. Davis should have succeeded in effecting, as well as all the other leading southern politicians against whom public indignation always turned with a feeling far more intense than against Generals Lee, Johnston, and other purely military men.

I repeat, that, according to my memory, Mr. Lincoln did not expressly name any specific terms of surrender, but he was in that kindly and gentle frame of mind that would have induced him to approve fully what I did, excepting, probably, he would have interlined some modifications, such as recognizing his several proclamations antecedent, as well as the laws of Congress, which would have been perfectly right and acceptable to me and to all parties.

I dislike to open this or any other old question, and do it for the reason stated, viz, lest I be construed as throwing off on Mr. Lincoln what his friends think should be properly borne by me alone.

If in the original terms I had, as I certainly meant, included the proclamations of the President, they would have covered the slavery question and all the real State questions which caused the war: and had not Mr. Lincoln been assassinated at that very moment, I believe those 'terms' would have taken the usual course of approval, modification, or absolute disapproval, and been returned to me, like hundreds of other official acts, without the newspaper clamor and

*For these terms, see Political Manual for 1866, and the Hand-Book of Politics for 1864, p. 121.
unpleasant controversies so unkindly and unpleasantly thrust upon me at the time.

I am, truly yours,

W. T. SHERMAN, General.

WASHINGTON, D. C., April 11, 1869.

*President Grant's Proclamation for the Election in Mississippi, issued July 13, 1869.*

In pursuance of the provisions of the act of Congress approved April 10, 1869, I hereby designate Tuesday, the 30th day of November, as the time for submitting the constitution adopted by the convention which met in Jackson, Mississippi, to the voters of said State registered at the date of such submission, viz: November 30, 1869.

And I submit to a separate vote that part of section 5 of article VII of said constitution, which is in the following words:

"That I am not disfranchised in any of the provisions of the act known as the reconstruction acts of the 30th and 40th Congresses, and that I admit the political and civil equality of all men; so help me God: Provided, That if Congress shall at any time remove the disabilities of any person disfranchised in the said reconstruction acts of the 30th and 40th Congresses, (and the legislature of this State shall concur therein,) then so much of this oath, and so much only, as refers to the said reconstruction acts, shall not be required of such person so pardoned to enable him to be registered."

And I further submit to a separate vote section 5 of the same article of said constitution, which is in the following words: "No person shall be eligible to any office of profit or trust, civil or military, in this State, who, as a member of the legislature, voted for the call of the convention that passed the ordinance of secession, or who, as a delegate to any convention, voted for or signed any ordinance of secession, or who gave voluntary aid, countenance, counsel, or encouragement to persons engaged in armed hostility to the United States, or who accepted or attempted to exercise the functions of any office, civil or military, under any authority or pretended government, authority, power, or constitution, within the United States, hostile or inimical thereto, except all persons who aided reconstruction by voting for this convention, or who have continuously advocated the assembling of this convention, and shall continuously and in good faith advocate the acts of the same; but the legislature may remove such disability: Provided, That nothing in this section, except voting for or signing the ordinance of secession, shall be so construed as to exclude from office the private soldier of the late so-called Confederate States army."

And I further submit to a separate vote section 5 of article XII of the said constitution, which is in the following words: "The credit of the State shall not be pledged or loaned in aid of any person, association, or corporation; nor shall the State hereafter become a stockholder in any corporation or association."

And I further submit to a separate vote part of the oath of office prescribed in section 20 of article XII of the said constitution, which is in the following words: "That I admit the political and civil equality of all men; so help me God:"

*Received too late for insertion in proper place with other proclamations.*
Female Suffrage.

The special committee of the Senate of Massachusetts has reported the following amendment to the constitution of that State:

Article of amendment.—"The word 'male' is hereby stricken from the 3d article of the amendment of the constitution. Hereafter women of this Commonwealth shall have the right of voting at elections and be eligible to office on the same terms, restrictions, and qualifications, and subject to the same restrictions and disabilities, as male citizens of this Commonwealth now are, and no other."

[This amendment must be approved by two successive legislatures, and then submitted to the men of the State.]

June 2.—It was voted down by the Senate—yeas 9, nays 22, as follows:


Proposed XVIIth Amendment.

House of Representatives U. S., 1869, March 16.—Mr. Jellison introduced a joint resolution proposing the following as the XVIIth amendment to the Constitution of the United States:

Art. XVI. The right of suffrage in the United States shall be based on citizenship, and shall be regulated by Congress, and all citizens of the United States, whether native or naturalized, shall enjoy this right equally, without any distinction or discrimination whatever founded on sex.

In Senate.

Proposed Amendment to Constitution of the United States.

At various public meetings the following amendment to the preamble of the Constitution of the United States has been proposed:

We, the people of the United States, acknowledging Almighty God as the source of all authority and power in civil government, the Lord Jesus Christ as the ruler among the nations, and His will, revealed in the Holy Scriptures, as of supreme authority, in order to constitute a christian government, form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, do ordain and establish this Constitution for the United States of America.

Elections of 1869.

In New Hampshire the vote was: for Governor, Onslow Stearns, (Rep.,) 35,733; John Belden, (Dem.,) 32,001.

In Rhode Island the vote was: for Governor, Seth Paddock, (Rep.,) 7,359; Symon Pierce, (Dem.,) 3,390.

In Connecticut the vote was: for Governor, Marshall Jewell, (Rep.,) 45,493; James E. English, (Dem.,) 45,082. Jewell's majority, 411.

In Michigan at the judicial election, Thomas M. Cooley was elected justice of the supreme court by 56,705 to 58,886 for O. Darwin Hughes.

In Virginia the vote was: for Governor, Gilbert C. Walker, (Cons.,) 119,492; IL IL Wells, (Rep.,) 101,291—Walker's majority, 18,264. The vote on clauses was: for clause 4, sec. 1, art. III of constitution, (disfranchising,) 84,410, against 124,360-majority, 39,950; for sec. 7, art. III, (test oath,) 83,458, against 124,715-majority, 41,257. For the constitution, 210,585, against 9,136.

In Washington Territory the vote was: for Delegate to Congress, Garfield, (Rep.,) 2,742; Moore, (Dem.,) 2,685—Garfield's majority, 147.

R. T. Daniel's Dispatch to President Grant.

Richmond, July 7, 1869.

Mr. President: On behalf of the State executive committee of the Walker party, I congratulate you upon the triumph of your policy in Virginia. The gratitude of the people for your liberality is greatly enlivened by the overwhelming majority by which that policy prevails.

R. T. Daniel,
Chairman.

His Excellency U. S. Grant,
President of the United States.
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