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THE CITIZEN'S DUTY IN THE PRESENT CRISIS.

A SERMON

PREACHED IN THE

SOUTH PRESBYTERIAN CHURCH OF BROOKLYN,

BY THE PASTOR,

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SERMON.

"BUT SPEAKING THE TRUTH IN LOVE"—EPHESIANS 4 : 15.

INTRODUCTION.

I PROPOSE, in discharging the duty assigned for this hour, to honor the direction of the text. I shall try to speak the truth. I hope to do so in love. My theme is THE CITIZEN'S DUTY IN THE PRESENT CRISIS. I assume that such a crisis exists. The public mind in this country is greatly excited, perhaps, as much so as it was at any time during the late war. We are launched upon a war of ideas, involving a collision of intense and conflicting thought. The American people are manifestly not unanimous as to the proper method of reconstructing the rebel States. Two theories of doing this work are before the public mind. The one may be called IMMEDIATE RECONSTRUCTION, and the other CONSTITUTIONAL RECONSTRUCTION. With the one the *President* is identified, and of the other *Congress* is the author. Between these theories, as matters now stand, the people must make a choice. What should that choice be? This is the question which I propose to consider.

As to the propriety of discussing such a subject in this place, and at this time, you will, of course, form your own opinions. My opinion you have in the fact that I do discuss it; and for so doing I offer no apology and make no defense. As to the discussion itself, you will be best able to judge when you have heard it. I do not stand in this place as a partisan, but as a Christian teacher, having opinions to express upon a subject which I deem of the greatest importance to the present and future weal of this country. Such a sharp, and in some respects embittered, contest as that which now exists between the President and Congress, two coördinate departments of the same Government, is justly a matter for profound regret. It is attended with many perils. It abundantly shows that there is a most serious fault somewhere. Neither party is able to decide the issue for the other. Both have made their appeal to the people. You are a portion of that people, and so am I. Hence I have deemed it my duty to investigate the subject, and then do what I can to aid you in arriving at a correct conclusion. I shall speak plainly upon the theme before us. I beseech you to hear me patiently.

IMMEDIATE RECONSTRUCTION.

I begin the discussion with the theory of immediate reconstruction. Those who adopt this theory insist, that Congress should at once concede to the rebel States, taken just as they are, without any

farther conditions, the right of representation in both Houses of Congress. This ought to have been done at the last session of Congress; and it ought now to be done at the earliest practicable moment. The President and those who support him hold this view. I do not adopt this doctrine; and if you will give me your candid attention, I will just as candidly state to you some of my reasons.

FIRST, I FIND IN THIS THEORY WHAT SEEMS TO ME AN IMPROPER ASSUMPTION OF EXECUTIVE POWER.—The rebel States, for whose immediate representation the demand is urged, have been reconstructed, if at all, exclusively under the authority of the President himself. He, and he only, has fixed the terms, without any legislation on the part of Congress to guide him. He did not consult Congress, but proceeded at once to solve the problem immediately after the Rebellion was crushed. The military part of the struggle was ended; and hence the President was not fighting battles, or adopting war measures for the purpose of conquest, but rather undertaking to reorganize civil society. What right then had he, upon his own authority, and merely as the Executive of law, to decide this whole question, and especially so to decide it as to bind the action of Congress? None whatever. General Dix, though he favors the President's policy, nevertheless expressly concedes that his action was "not in pursuance of any constitutional power." I agree with this opinion. I am no lawyer, yet I can not for the life of me find the President's constitutional authority for his course of action.

The Article of the Constitution referred to by the President as the basis of his action, reads thus: "The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and, on application of the Legislature, or of the Executive, (when the Legislature can not be convened,) against domestic violence." You will mark, "the United States" shall do this; and surely the President himself is not "the United States." The phrase evidently means the whole people, acting through the National Government, of which Congress is an indispensable branch. Louis XIV. once said, "I am the State;" yet the parallel of this doctrine in a modern President will not be acceptable to the American people.

There is, moreover, a decision of the Supreme Court of the United States, rendered in a case growing out of the Dorr Rebellion in Rhode Island, which expressly declares that Congress must determine when a Republican government is organized in a State, and what is such a government. The Court says: "Under this Article of the Constitution it rests with Congress to decide which government is the established one; for as the United States guarantee to each State a republican government, Congress must necessarily determine what government is established in a State before it can decide whether it is republican. . . . Undoubtedly a military government would not be a republican government, and it would be the duty of Congress to overthrow it." In this ruling of the Court it is distinctly implied that both the right and duty of action, as contemplated in this Article, are addressed to the Congress of the nation. And if this were sound doctrine in respect to the rebellion in Rhode Island, then surely it ought to be applied to the Great Rebellion which has just been suppressed. Yet the President flies right in the very face of this doctrine by assuming

a power which, as the Supreme Court decides, belongs specially to Congress. He has guaranteed republican governments to the rebel States, without waiting for even the advice of the legislative department of the Government.

It so happens, too, that the Senate of the United States, during the administration of Mr. Lincoln, expressed an official opinion on this subject. The Judiciary Committee, in reporting upon an application for the admission of Senators from the State of Louisiana, held the following language: "The persons in possession of the local authority of Louisiana having rebelled against the authority of the United States, and her inhabitants having been declared to be in a state of insurrection, in pursuance of a law passed by the two Houses of Congress, your Committee deem it improper for this body to admit to seats Senators from Louisiana, till, *by some joint action of both Houses*, there shall be some recognition of an existing State Government, acting in harmony with the Government of the United States, and recognizing its authority." This report was unanimously approved. Nobody then complained of this decision; and yet because the Thirty-ninth Congress has acted upon the very same principle, it has been severely denounced. This Congress has been virtually asked to act mainly in the capacity of a recording secretary to the President. True, each House may judge of the qualification of its own members, to see that they have been duly elected, and bear with them the proper credentials; but the President is the sole judge whether the State governments in these rebel States have been properly organized, and whether they are republican or not. Not so thought the Senate, when speaking in the days of the lamented Lincoln.

It is also a very remarkable fact that the President, in his present position, stands contradicted by his own official record. On the 24th of July, 1865, in an official communication with Governor Sharkey of Mississippi, he said: "It must, however, be distinctly understood that the restoration to which your proclamation refers, *will be subject to the will of Congress.*" On the 12th of September, in 1865, in a like communication with Governor Marvin of Florida, he said: "The government of the State shall be provisional only until the State government is reorganized, *and the basis of that organization will be subject to the decision of Congress.*" Why, then, does the President now contradict his own record, and condemn Congress for simply doing the very thing which in 1865 he said it would have a right to do? I confess that I can not tell. I had supposed that Congress was not a body hanging "on the verge of the Government," but an integral part of the Government, in which were vested all the legislative powers granted by the Constitution. I retain this opinion still; and hence, if I approved the President's terms of reconstruction, I should be compelled to protest against the source of those terms, especially when they are set in array against the views of Congress. I find no power in the President to do what he now claims to have done.

I FIND, IN THE SECOND PLACE, NO NECESSITY FOR EXECUTIVE ACTION WITHOUT PREVIOUS CONSULTATION WITH CONGRESS.—The President might easily have convened this body immediately after the collapse of the Rebellion, or he might have held the rebel States under military authority until the regular session of Congress. Either

course would have given the Congress of the United States an opportunity to speak of the subject before any policy was adopted. The position of things was novel, without any precedent in our political history; and there was no earthly reason why the President, even if he had the power to do so, should take upon himself the whole load of deciding all the questions involved. There was no necessity for it. It looks to me rash, especially so in one who had been elevated to his high office not by the direct choice of the people, but by the murderous assassination of his predecessor. I have always regarded it as an exceedingly unfortunate step. Men in high position sometimes commit great mistakes; even politicians, who make a business of managing the public mind, do not always correctly forecast the future. Occasionally they are sadly disappointed.

I FIND, IN THE THIRD PLACE, THAT THE MAIN PROPOSITION UPON WHICH THIS THEORY OF IMMEDIATE RECONSTRUCTION IS NOW URGED, IS A FALSE PROPOSITION.—If I understand its advocates, they insist that the rebel States have a constitutional right to be represented in Congress without any conditions precedent thereto, and hence that any delay or prescription of such conditions is an infringement upon the Constitution. Having stopped fighting, they have a perfect right at once to resume their places in Congress, and commence voting. The very moment the war ceased, the right sprang into being. Some go so far as to say that the right was perfect and intact even during the war. It was simply not used.

Now with all men who hold this theory, or any thing that involves it, I join issue. What is the case with which we are dealing? It is the case of *treason*—causeless, cruel, murderous, Heaven-defying treason—in the first instance that of individuals conspiring against the Government, and in the second instance that of political communities, called States, organized with all the appliances of State authority, and levying war against the United States. Now, I ask in all candor, whether there be no forfeiture of rights as the necessary incident of such treason? Do all things remain just as they were before this stupendous crime was committed? If so, then we have the strangest government of law, and the strangest doctrine of rights, in this country, that were ever known among men. I had supposed that treason worked a legal forfeiture of all the ordinary rights of citizenship, even to that of life itself, and that any thing short of death was so much in the way of gratuity to the traitor. I had supposed that the disposition to be made of the traitor, was a question to be settled by the Government in the exercise of its legal authority. I had supposed that when treason is so general as to become the act of a political community known as a State, involving all the officers of the State Government, and especially that when a number of such political communities combine together, actually levy war upon the United States, and pursue this work with the desperation of death for four long years—I say, I had supposed that such a state of facts, such an awful crime, did at least make a slight change in the position and relation of these communities with reference to the General Government. I know that the doctrine of States and State Rights is recognized in the Constitution; but this manifestly applies to loyal States, and not to States in the attitude of war against this very Constitution. You must not reason about the rights of a rebel State as you

do about one that is loyal, since the two cases are not at all parallel. How, I beg to know, can such a State exercise the right of representation in Congress, when, by the terms of its own condition, it has no State officers, no Legislature, and no Governor, in the constitutional sense, to supply the indispensable preliminaries of the right? The State officers themselves are traitors, administering a treasonable government over a people involved with them in this common treason; and the moment they are conquered the whole thing, *ipso facto*, collapses without any power to provide for the creation of constitutional successors. There must hence be some action of the Government restoring rebel States to their lost position, before they are in a condition to talk about their right of representation in Congress. They must be in a condition which makes them legally competent to choose a representative. I do not care whether they were technically *in* or *out* of the Union during the war, whether they were alien enemies or merely rebellious subjects, since I am utterly unable to see how these people can resume the relations and privileges of a loyal people, except by some governmental action to define the method, and also to say when the thing is accomplished. Being criminals, they certainly can not sit in judgment upon their own case. As belligerents vanquished in war, they must accept what the conqueror chooses to give. The case is very different from what it would be in a merely local insurrection, that did not carry with it the whole machinery of State Government. In this case the State communities as such, and the individuals as such, in both capacities made war on this nation; and, although they did not cancel their obligations, they did nevertheless forfeit their rights under the Constitution which they were seeking to destroy. All this clamor about the right of representation in behalf of rebel communities, entirely overlooks the crime of treason laid to their charge. The doctrine of State Rights, such as even rebellion itself can not suspend, disturb, or forfeit, such too as may spring into active exercise at any moment when the rebels choose to have it so, may suit the pupils of John C. Calhoun; but at the bar of common-sense it is a pure fiction, having not the slightest foundation in truth. It just plays its metaphysical antics with the word *State*, as if the State had a political being distinct from the people that compose it, as if the State could be loyal and retain its rights as such when the people themselves are traitors.

I hear an objection just here, coming from the lips of one who affirms that the President has changed the whole status of the question by his own action. Yes, I know he assumes to have done this. He assumes to have created loyal States out of those which were rebel, and which being thus created, are now entitled to be represented in the National Congress. But where was his authority for doing this independently of the action of that Congress? I will thank any man to show me the clause in the Constitution, which invests the President with the power to erect a State Government out of any materials, constitutional and republican in its form, where none exists. It is the business of Congress to provide for this result by special legislation. I deny that the President can turn a rebel State into a loyal one in the constitutional sense, without the action of Congress; and he certainly can not do it against the will of Congress.

I may as well put in another thought at this point, to which I ask your attention. It seems to me that this proposition of unforfeited State Rights as a plea for immediate reconstruction, reflects quite as severely upon the action of the President as it does upon that of Congress. What right, I beg to know, had the President to interfere with the State Rights of these rebel communities? Did he not appoint Provisional Governors, and invest them with temporary jurisdiction over these sovereign States, and sustain them by the military power of the Government? Did he not supersede their existing State authorities? Did he not, in express contradiction of State laws, order the calling of Conventions to remodel the Constitutions of these States? Did he not require the sovereign people to take the oath of allegiance before they should be permitted to vote? Did he not say who should be voters, and did he not exclude certain classes from this privilege? Did he not insist that the rebel States should repudiate the rebel debt, revoke their ordinances of secession, and adopt the constitutional amendment abolishing slavery, as conditions to be complied with before they could expect to be represented in the National Legislature? These acts of the President are matters of history. If he had done the same things in the loyal State of New-York, the people would have cried out in rage; and the Congress of the nation would have at once impeached him. It seems then that there is a difference, by the President's own showing, between a loyal State and a rebel State. The two do not stand on the same basis of political rights and privileges. How happens it then that the President condemns Congress for adopting a theory on this subject, of which he himself has given the example? The argument against Congress, as drawn from the so-called rights of the rebel States, falls with very poor grace from the lips of those who indorse the President. It condemns every thing that the President has done from top to bottom. It is an utterly false argument; but if it be good, then the President is certainly wrong in all that he has done. If it be good, then he had no more right than Congress to interfere with the rebel States, and especially to prescribe to them conditions of representation. It was their business to reorganize themselves, and fill the vacant seats in Congress at their own pleasure, and with just the men that suited them best. I advise those who denounce Congress to do one of two things—either accept this consequence of the principle from which they reason, or apply the same denunciation to the President. If Congress be guilty, then the President is equally guilty.

I FIND, IN THE FOURTH PLACE, THAT THE FRUITS ATTENDANT UPON THE THEORY OF IMMEDIATE RECONSTRUCTION, AS THUS FAR DEVELOPED, SHOW IT TO BE ESSENTIALLY DEFECTIVE. It is a fact so notorious as to admit of no dispute, that the Senators and Representatives from the rebel States chosen under this policy were, for the most part, men who, within less than the period of a year, had occupied official positions, civil or military, in conducting a war of treason against the life of this nation—men who could not take the test-oath without perjury—men who submitted to the national authority simply because they could not help themselves—men who would have been in their graves if the criminal laws of the country had been executed upon them; yet who appeared in Washington to take

part in the legislative counsels of the nation. This is a startling fact in the very outset of the question, not a very flattering commentary, one would think, upon the policy under which it occurs. Was the like ever heard of before? True, these men had accepted the situation as it is called, just as an infidel consents to die when the Providence of God forbids him to live. The thing looks bad. It looks as if there were a screw loose somewhere. I for one did not go in for putting down the Rebellion, and then setting up distinguished traitors in official authority at such short notice. A reconstruction that carries along with it this consequence, is too immediate for my purposes. It startles me by the rapidity of the work. It places men in the halls of Congress, who as richly deserve hanging as any men that ever died on the gallows. It runs directly against all the principles and convictions, which governed the loyal people in their efforts to put down the rebellion. The distinguished author of the Cleveland Letter may view it as very magnanimous—a genuine feast of brotherly love—yet I must say that I am not yet quite prepared for such a feast.

It is equally a fact, as shown by sworn evidence, that the rebel States themselves, as reconstructed under the policy of the President, are not in a fit condition to enjoy the right of representation in Congress. Congress took pains to examine this question of fact, appointing a special committee for this purpose. The report of that committee sets forth the following conclusions on the basis of testimony from the lips of hundreds of competent witnesses:

“1. The evidence of an intense hostility to the Federal Union, and an equally intense love for the late Confederacy, nurtured by the war, is decisive.

“2. The ruling motive for their submission, for a time at least, to the Federal authority, is to obtain the advantages of a representation in Congress.

“3. Without the protection of United States troops, Union men, whether of Northern or Southern origin, would be obliged to abandon their homes; and they are everywhere bitterly and relentlessly persecuted.

“4. The conciliatory measures of the Government have not been met half-way; but, on the contrary, the bitterness and defiance exhibited toward the United States, are without a parallel in the history of the world. In return for leniency we receive only an insulting denial of our authority. The crime we have punished, they parade as a virtue; and the principles of Republican Government we have vindicated at so terrible a cost, are denounced as unjust and oppressive.

“5. They would pay no taxes levied by the United States except upon compulsion; and they would, if they should see a prospect of success, repudiate the national debt.

“6. Their own Southern press, without any material exceptions, defends the men who led, and the principles which incited, the Rebellion, and calls upon the President to violate his oath of office, overturn the Government by force of arms, and drive the representatives of the people from their seats in Congress.

“7. At festivals and in public demonstrations in honor of the Rebellion, they openly insult and scoff at the national banner.

"8. They elect to their most important offices those of their unpardoned Rebel chiefs who violated their oaths and abandoned their flag; and in some instances their selection to office of their chief murderers has been so shameless that even the President, at one time, would not permit them to enter upon their official duties."

This statement of the conclusions to which the Committee on Reconstruction arrived, I take from a recent speech of Judge Shellabarger of Ohio. They are conclusions resting on sworn testimony. I do not say that such facts are wholly due to the President's policy, but that they exist under it, and are not prevented by it. The granting of pardons to traitors by the wholesale is well calculated to impress the Southern people with the idea that the Government is not, after all, very much opposed to such things. I insist that political communities thus marked ought not to enjoy the right of representation in Congress. It looks very much as if they wanted reconstructing again. As now reconstructed, infamous traitors are in power at the South; they hold the State offices, and enact and execute the State laws; they are the men who, under the President's policy, ask for seats in Congress; and Union men, who never bowed the knee to Baal, are persecuted, and in many instances, as at New-Orleans and elsewhere, murdered for their loyalty. Treason is the passport to favor, and loyalty during the war the badge of proscription and dishonor. The greater the traitor, the better the man. This, I confess, seems to me a queer kind of reconstruction. It is a very singular way of making treason "odious."

You have, perhaps, read the Address to the American people issued by the Second Convention held at Philadelphia, differing in very many respects from the First Convention held in the same city, and particularly in the fact that it was composed exclusively of loyal Southerners, many of whom had to be secretly appointed in order to escape the hand of violence. These loyal Southerners draw up a most terrible indictment of facts against the course pursued by the President. They set forth their own condition as the tried friends of this Government, and because they are such, and were such in the darkest days of the struggle. They tell us, too, of the unprotected condition of the Freedmen. They are credible witnesses. They have lived in the midst of the scenes they describe. Bitterly, justly, yea, imploringly, do they complain that Union men at the South should, in the hour of national triumph, be left unprotected by this Government. They declare the policy of the President to be their curse and their ruin. I believe their words. I will believe such men much sooner than I would believe unrepentant rebels, especially when the facts that from time to time reach the public ear, exactly correspond with the testimony. There is no getting rid of the main facts. There they are. They stare you right in the face.

Tell me not to be silent. I have a duty to perform, and you have, and I pray God that you may perform it. I have no faith in the loyalty of those who persecute loyalty, while they load treason with their choicest honors. I have no faith in a public sentiment like that which now prevails in these rebel States. The majority of the people, abusing the mistaken leniency of the Government, are to-day as treasonable in their *feelings*, and would, if they could, be as treasonable in their *action*, as they were at any time during the war. I am not

so anxious for immediate reconstruction that I will consent to take these people upon the conditions proposed by the President. I prefer to try again, and, if necessary, I prefer to *fight* again. I insist that it is the duty of this nation to make treason odious and loyalty honorable. I insist, in the language which the President himself once employed, that traitors shall take the back seats and loyal men the front seats.

And then in respect to the Freedmen, never with my consent shall they be left where they would be left, if we were to close up this question according to the policy in question. They fought for us and they fought with us; they were our friends when we wanted friends and were very glad to welcome their services; and now to remit them to the tender mercies of our former enemies and their former oppressors, with no legal care for their interests, with no guaranteed equality before the law, with the liability to be virtually reenslaved by State laws regulating labor, would be an act of treachery and ingratitude well worthy of the curse of Heaven. The moral sense of the world would cry out against us, if we were to do this thing. This people are powerless to protect themselves; they want our help; and we are in covenant before God to afford the help. We are bound to be true to the men that were true to us. Shame on this nation, if we should now break faith with these allies sought and accepted in the hour of our agony! History would scoff at us forever.

IT SEEMS TO ME, IN THE FIFTH PLACE, THAT IMMEDIATE RECONSTRUCTION ON THE BASIS PROPOSED, WOULD LEAVE THE WAY OPEN FOR FUTURE EVILS OF THE VERY GRAVEST CHARACTER.—Let us stop a moment, and see wheremto this thing is likely to grow. Grant to these rebel States representation in Congress, just as they are without any additional restraints or guarantees; and I believe that you will sow the seeds of evil for many generations to come. Let me state to you some of the aspects of this peril.

In the first place, the men who led the public mind of the South during the war, would very speedily find their places in the halls of Congress. Nothing can well be more certain than this. They are representative men, such men as the Southern people delight to honor; and to admit them to their seats, you must of course repeal the test-oath. You will have perjured traitors creeping back into Congress, or rather entering that body with flying colors.

In the second place, the number of these Southern Representatives would be very considerably increased, at the next apportionment, by the abolition of slavery, since all the colored people, though not enfranchised, would be counted in fixing the ratio of Southern Representation. This would add to the future political power of the States we have conquered. They would in this respect be actual gainers by the rebellion.

In the third place, the Southern Senators and Representatives in Congress would be very certain to be united on all questions incident to the rebellion. They would represent Southern ideas and Southern interests, and make Southern demands. They would offer themselves as a compact body to any political party at the North, that would accept their services on condition of adequate payment to them. They would be in the Northern market to be bought at their own price. There would also be a Northern party ready to pay the

very highest price which it dare pay, for the sake of securing the unanimous vote of the South; and it is not at all insupposable, or even improbable, that this party, strengthened by the united support of the South, might gain the control of the National Government. It was by just this conjunction of things that the South practically ruled the country before the Rebellion; and by a similar conjunction it might do the same thing again.

Now take these three elements and place them in the political problem of the future, if we restore the rebel States with no guarantees for that future; and what are some of the questions almost certain to be involved in that problem? There is the National debt contracted to pay the expenses of whipping the Rebellion, not very welcome to a people whom we have conquered. There is also the rebel debt, worthless now, yet capable of being assumed in whole or in part, and which the bondholders, mostly Southern men, would doubtless be very glad to have the Government assume, paying a large bonus for votes in the way of bribes. There is again the question of compensation for the forced emancipation of slaves, in which their former masters have a great pecuniary interest. There is also the system of Pension laws adopted as a testimonial of the nation's gratitude to the soldier and the sailor; and it would unquestionably be very agreeable to the South to have the Confederate soldiers and sailors placed on the Pension list. And besides all this, there is the question, already mooted, whether the legislation of Congress, during the absence of these Rebels from their seats, is to be deemed valid. The President himself has put in the entering wedge of this idea, in two of his veto messages, by assigning it as one of the reasons for his veto. I do not suppose that he actually meant to raise this question; but he has certainly opened the way for some one else to raise it. And still further, there is the question whether slavery itself has been constitutionally abolished, since it may be said, yea, it has been said, that the Conventions called by the President in the rebel States were nothing but illegal and revolutionary bodies, having no right to organize a State Government, or vote upon a constitutional amendment, or to do any thing else legally binding on the people.

I am no alarmist; but I give you my opinion that, if we settle the account with the rebel States in the way proposed, it will not be many years before some of these questions will be launched upon the dangerous seas of sectional strife and party politics. The door would be left wide open for them. You would hear of these questions in Congress; and you would find the rebel States marching in solid column in one direction, ready to ally themselves with those who would favor their views. Now I want something safer and stronger than the proposed theory of Immediate Reconstruction—something more radical than what seems to me a mere system of patchwork. I want to carry these questions, so far as the thing can be done, beyond the reach of political parties. I do not want them to be left to any system of bargain and sale among those who make a trade of politics. I want, if possible, so to rig the ship now that she will probably sail safely through the future excitements of the public mind. It has cost a vast outlay of treasure and blood to save this nation; and the men who have saved it, and not those who sought

its life, are the proper persons to fix the terms of final settlement. It becomes the Rebels to be exceedingly modest, and wait patiently, while patriots sit in counsel on this question.

I OBSERVE FINALLY, THAT THIS THEORY OF IMMEDIATE RECONSTRUCTION IS SINGULARLY EMBARRASSED BY BOTH ITS ADVOCATES AND ITS OPPONENTS. I grant most cheerfully, that among its supporters are a great many patriotic and true men, whose honesty it is not for me to question. Yet among these supporters I find—and this is the thing which staggers me—all the Southern rebels and traitors—all the Northern sympathizers with the Rebellion—all the men who denounced the war, and did what they could to embarrass the Government in its prosecution—all the fault-finders and grumblers against Mr. Lincoln. All these classes seem to be exactly suited with this policy. This I look upon as a very suspicious circumstance in the case. It gives me the impression that there must be something not quite right about it, and hence that the true men who favor it are honestly making a mistake. When such a man as General Forrest, who murdered our troops at Fort Pillow, and others of like character, advocate a plan of reconstruction for the rebel States, I think it quite time for loyal people to open their eyes, and carefully examine the plan. I feel quite confident that what is so universally pleasing to traitors, can not be the thing which the nation wants and ought to have. When traitors shout for an idea, I shall look very thoughtfully before I shout. If we both shout, then one or the other of us must be wonderfully deceived.

On the other hand, I find among the opponents of this theory the great body of the loyal people, who during the war were as true as steel, who supported the administration of Mr. Lincoln, and in 1864 reflected him with overwhelming triumph. They do not agree with the President in his present policy. He does not at all represent their views. As to the position of the Army and the Navy, I think that the recent Convention of soldiers and sailors at Pittsburg shows which way the current is drifting with the men who fought and bled for their country. That was a very different Convention from the one to which General Forrest found it convenient to send a telegram of greeting. The Congress of the nation has also by a very large majority taken its ground. It is quite possible, yea, I think it more than probable, that there may be as much wisdom in the two Houses of Congress, as in the best views of any single man, however elevated in official position, or penetrating in his sagacity. When you turn to the loyal men of the South, the men who opposed treason during the war, you find them unanimous in most earnestly condemning the policy of the President. So far as the people have had an opportunity to speak through the ballot-box, no man can doubt as to what they think. The judgment of Maine and Vermont is already upon the record, and soon other States will be heard. The President must see, he can not but see, that his policy does not represent the views of those whose votes placed him in power. This great and rising excitement of the public mind results from an antagonism between the policy of the President and the judgment of a large portion of the people. Nothing is more evident than that the President to-day occupies a position, in reference to the people, widely different from the one he occupied when he was sworn into office. He is now

praised by those who but yesterday denounced him, and now opposed by the men who sincerely hoped, and some of them prayed, that the mantle of the martyred Lincoln might fall upon his shoulders. We hear no more from his lips about making treason "odious." The whole tone and temper and drift of the President's mind have been changed. There is no doubt of the fact. He may be perfectly honest in all this—far be it from me to say that he is not; yet of the fact there can be no doubt.

My conclusion from this line of argument is, that the policy of Immediate Reconstruction as inaugurated by the President, ought not to go into effect. With the President as a man, as a citizen, I have nothing to do in this discussion. I simply deal with him as a public officer, whose official acts are before the people for review. Of these I have spoken freely, without epithet, without passion. I meant to do so; and if I have done so, then I have done the very thing I meant to do. I want the outstanding questions of this Rebellion settled as speedily as possible; yet I should regard it as a very dark day for this country, if they were settled according to the programme given us by the President. In my judgment we should be in great danger of losing nearly all the benefits we supposed we had gained at the terrible price of victorious war. We should leave the country in a condition for endless agitation, even if we did not have to fight the whole battle over again. Let us settle this thing right if possible; and then it will stay right when we are sleeping in the grave.

CONSTITUTIONAL RECONSTRUCTION.

The Congress of the United States has expressed its opinion upon the problem of Reconstruction by proposing to the people an amendment to the Constitution, and inserting in that amendment certain provisions growing out of, and having reference to, the question. It is the judgment of Congress that the Constitution should be altered in several respects, properly to meet the exigencies of the case; and as to the nature of the proposed alterations, I shall speak to you freely in the sequel of this discourse. It is a good Constitution; yet the fathers who framed it, and the people who adopted it, did not then see and feel what we have seen and felt in this age. It is fair to suppose that we in this age are better prepared to judge as to what the country now wants, than the men who lived three quarters of a century since. We do not disparage their wisdom in thinking that we can improve the National Charter which came from their hands.

In submitting this amendment to the people, Congress assumes its own power of action in the case. It certainly has power to propose amendments to the Constitution. This no one will dispute. Each House of Congress is also the judge of the qualifications of its own members. And, moreover, as I have already shown, this question of restoring rebellious communities to their forfeited privileges belongs properly to the Congress of the United States. The question manifestly is one which should be settled by law, and according to law; and in Congress, and not the President, are vested the law-making powers of this Government, alike in peace and war. The President virtually says that he is the *sole* judge in the case. No, says Con-

gress, this subject belongs more properly to the legislative department of the Government; and it is, moreover, one of so much importance that it is best to incorporate the principles of the settlement in the fundamental law of the land.

You perceive also that Congress solicits the public judgment upon this whole question. The policy of the President would settle it at once by executive authority without taking the sense of the people. The policy of Congress refers the whole matter to the sovereign people by asking them to amend the Constitution of the country. The policy of the President would be virtually a snap-judgment, while that of Congress gives the fullest opportunity for the most careful deliberation.

Keep in mind, too, if you please, that Congress does not propose to disturb or nullify what the President has done, but simply to make some additions thereto. It charges upon the President no usurpation; it takes the case just where he leaves it, without reversing a single one of his acts, and merely adds what it deems necessary to a safe and prudent solution of the problem. It has always seemed strange to me, that either the President or any body else should attack the Congress of the United States for so doing. The severe denunciations of Congress falling from the lips of the President during his late tour, filled me with surprise. I read his speeches with amazement. That whole tour, in the conduct of its principal actor, was a most astounding spectacle.

The question has been asked, and it deserves an answer, What connection is there between the proposed amendment of the Constitution and the restoration of the rebel States to their former position in the Union? Suppose the amendment to be adopted: what then? Would Congress admit Senators and Representatives from these rebel States? I answer, Yes, of course, provided they complied with the principles of what would then be the Constitution of the United States. The object of the amendment is to open the way for this result. Its adoption would be at once followed by whatever legislation might be necessary to this end. The Thirty-ninth Congress was even more liberal than this, since it admitted the Senators and Representatives from Tennessee upon its *own* adoption of the amendment, without waiting to see whether it would be ratified by a sufficient number of States. That may have been wise in the case of Tennessee; perhaps it was politic as an answer to the slanders which have been heaped upon Congress; yet I have very strong doubts as to its expediency. I would not repeat the thing in the case of a single other State. I would wait till the amendment is actually adopted by the requisite vote before acting upon the theory which it sets forth. It will be quite seasonable to act upon the principles contained in this amendment, when they become a part of the constitutional law of the land.

Having stated these preliminaries, I shall now call your attention to the amendment itself, section by section.

(SECTION I.)

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of

the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

This section, if adopted, settles the question which the Constitution as it now exists, does not settle, as to *who* are citizens of the United States, and also of the State in which they reside. Citizens, in this sense, will then be "all persons born or naturalized in the United States, and subject to the jurisdiction thereof." The citizen of the United States will of necessity be a citizen of the State in which he resides, since the same terms of citizenship apply equally to both. Is there any valid objection to this doctrine? Ought not the Constitution of a Republican Government definitely to fix the meaning of this word, *citizen*? Ought not the word to have the same meaning throughout the whole country? Ought not a citizen of the State to be also a citizen of the United States, and ought not a citizen of the United States to be equally a citizen of the State in which he resides? And, moreover, are not "*all* persons born or naturalized in the United States, and subject to the jurisdiction thereof," the proper persons to be citizens in this broad sense? It is enough to ask these questions, since they answer themselves. This clause of the section carries upon its very face its own demonstration. No one can oppose it without at the same time opposing the fundamental principles of a Republican Government, coming from the *whole* people, and existing for the *whole* people. As to what are termed *civil* rights, it is designed to place *all* the people on the same basis of equality before the laws. This is manifestly just. And to guard this point with the greatest possible care, the section, in three prohibitory clauses, imposes such a restraint upon all State legislation as would interfere with the equal civil rights of every citizen in each and every State. This prohibition is virtually implied in the first clause of the section, yet it was thought best to put it in express language. No one who is a believer in the doctrine of equal civil rights will object to the restriction. Allegiance and protection are correlative obligations. The Government that demands the former, is always bound to afford the latter. It must protect those to whom it speaks as the subjects of law.

How will this section affect the Freedmen, those who were formerly slaves, but are slaves no longer? I answer, just as it will affect all other men. It will recognize them as citizens of the United States and of the State in which they reside, and will afford to them precisely the same protection which it affords to white men, no more and no less. While it does not determine the question of political franchise, and was not designed to do so, it does guarantee to *all* citizens the equal enjoyment of their civil rights. It knows nothing about the color of a man's skin. It precludes all class legislation. It makes it impossible for the State to have one set of laws for the civil rights of white men, and another set for black men. The laws must be equal by affording the same protection to all. As was very happily said by the Hon. Horace Maynard, like the Lord's Prayer and the Ten Commandments, it speaks to men, and of them, simply *as men*. As to personal and civil rights, it meets all the wants of the colored population, both North and South, by simply ignoring this question of color.

As I have no doubt, it was the special intention of Congress, in proposing this section, to secure a proper protection to the colored people of the Southern States, to make their freedom a fact, and render it impossible to evade this fact by any system of partial and unjust legislation. This ought to be done, and it ought to be done now, rather than at some future day. It is right *now*, and it is a duty *now*. The faith of the nation is pledged to this result. The people ought not to consent to any plan of reconstruction which leaves this question unsettled, especially when we remember that the colored people as yet have no voice at the South in the election of those who enact and execute the State laws. I am not willing to commit their fate to their former masters in this unprotected condition. In the present temper of the South, I should greatly fear that State laws in relation to testimony, contract, labor, property, vagrancy, and apprenticeship, enacted with special reference to the Freedmen, would virtually reproduce the system of slavery. Every man knows that slavery has not been abolished with the good-will of a majority of the people at the South. It was a matter of compulsion rather than of choice. Southern public sentiment has undergone no essential change on this subject. It is to-day just what it has been for years past. Hence I am not willing to leave the way open for the legal expression of that sentiment against the civil rights of the Freedmen. I know that we have been earnestly exhorted from a very distinguished source to trust the South on this subject, especially as this is a progressive age in which some progressive men strangely take the back-track; yet my common-sense has taught me that when I trust, I should have sufficient reasons for so doing. I do not in this case see the reasons, and this is my difficulty with the trust. I do not propose to be deceived on this point. I want to fix things right first, and then trust afterward. Give me this section of the amendment, and an honest Congress, and a faithful Executive, and then I am ready for the trusting theory.

(SECTION II.)

“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 shall bear to the whole number of male citizens twenty-one years of age in such State.”

In my comments on this section I grant, in the outset, that the policy here proposed, is not all that I think would be perfectly proper and just. I believe that the Constitution of the United States ought to define a citizen in the *political* sense, and that the definition should be placed on the broad principle of *impartial suffrage*. I have never been able to see why a colored man should be politically disfranchised for a reason not equally applicable to white men. If he may be

taxed to support the Government, and may be compelled to fight for it, then, like all other men, he ought to have a voice in the choice of those who make and execute the laws. He has in the question all the interests and rights which belong to white men; and why should he not have the same privileges? If you have a test, whether of intelligence or property, then apply it impartially to all. If you have no test, then let all vote. This has always been my doctrine. I have always voted for it whenever I had the opportunity of doing so; and I think I always shall. The loyal Union men of the South are now demanding Negro suffrage as necessary for their own protection. This may be a reason with them for the demand; it may be too a good reason; but it is very far from being the *highest* reason. The plain and obvious justice of the thing is the true reason for impartial suffrage. The New-York *Tribune* has set forth *universal amnesty and impartial suffrage*, as being the truest doctrine for the political exigencies of the hour. I am not able to see that these two principles have any necessary connection with each other. As has been well said by another, they may both be right, or they may both be wrong, or one may be right and the other wrong. I am not in favor of universal amnesty to all traitors upon any basis, any more than I am in favor of universal amnesty to all murderers; but I am in favor of impartial suffrage upon its own merits. And if Congress had seen fit to submit this specific question to the people, I should have given it my earnest support. Congress has not done so; and hence with this brief statement of my opinions, I shall proceed to consider the point that is before us in the second section of the proposed amendment.

You perceive at once that population in the respective States is made the basis of representation in the lower House of Congress; not the voting population, but the *whole* population, including *all* persons with the exception of Indians not taxed, and of course including those who were formerly held as slaves, and who during the period of slavery were counted in the basis in the proportion of three fifths of their whole number. Slavery being abolished, this three fifths rule of course is at an end; and now it is proposed to count *all* the people, black and white alike. The South, I presume, will not complain of this part of the section. The white people of the South will be entirely willing to count the blacks in estimating their representative population, since by so doing they add to the number of their Representatives in Congress. There is no reason why the North should object to the principle, provided it be consistently carried out in good faith.

You will observe too, that this section does not decide as to "the male inhabitants" who shall in fact constitute the *voting* population of a State. It leaves this question, where it always has been left, with the respective States, to be determined by State Constitutions or State Legislation. It does not disturb the old practice on this subject. This particular point will of course excite no debate. Congress assumed that the country was abundantly satisfied with the thing as it is, and hence proposed no change.

The real point where the pinch comes, and about which the controversy will gather its forces, is the proposed reduction in the number of representatives from any State that shall see fit to place

any class of its male inhabitants, being twenty-one years of age and citizens of the United States, and not guilty of rebellion or other crime, in the list of a *non-voting* population, whether in respect to State officers or those of the Federal Government. The section says that if any State shall exclude any class of persons from the voting privilege, then the class so excluded, shall not be counted in estimating the number of Representatives in Congress to which that State is entitled. This is the principle set forth; and just here is the difficulty, if there be any, with this section.

As an abstract proposition dissevered from any special relations, I think it simply just and fair. It secures a just and equal representation in Congress among all the States. It puts them all on the same foundation. While it does not forbid the States to exercise the power of "denying the election franchise to a part of their people," it nevertheless insists "that the political weight of each State in the House of Representatives shall be measured by and based upon its enfranchised population. If any State shall choose, for no crime, to deny political rights to any race or caste, it must no longer count that race or caste as a basis of political power in the Union." Leaving this voting question with the State, and being perfectly just to all the States considered in their relation to each other, this section in its moral effect supplies a motive against the formation of political oligarchies in the State. It fosters, and to some extent guarantees, the democratic principle. Apply the theory to Irishmen, if you please. It says, that if the State of New-York shall deny the elective franchise to Irishmen, then Irishmen shall not be counted in estimating the political weight of this State in the Union, and thus furnishes a motive in favor of the political rights and privileges of this class of men. Is there any objection to the principle when applied to Irishmen? I suppose not; and yet I presume that hundreds and thousands of them will vote against it.

Ah! but, says the objector, there is a negro in this question. Well, suppose there is, what of that? Are you going to forsake a good principle because it may have some bearing upon the question of negro suffrage, especially in the Southern States? Let us look at the case a moment. There are now no slaves at the South. The people are all free by law. The population of the ten States not yet represented in Congress is, in round numbers, about four millions and a half of white people, and about three millions and a half of black people. In some of these States the blacks are the most numerous. Now, if these States deny the elective franchise to the blacks, and yet are permitted to count them in the basis of their representation in the lower House of Congress, it will then follow that the voters of a white population of four millions and a half will, for the purpose of choosing President and Vice-President and Representatives in Congress, wield all the political power that is granted to eight millions of people in the hitherto free States. In South-Carolina there are about three hundred thousand white people, and about four hundred thousand black people. And if the political franchise be limited to the whites, then three hundred thousand whites in South-Carolina will have as much political power in the Union as seven hundred thousand whites living in the State of New-York. A white Southern voter in the ten excluded States would be nearly

equal to two such voters at the North. How do you like these figures? Suppose there is a negro in the question; please to tell me how these figures suit you? Do you think it just and equal, that the South should entirely disfranchise the colored population, and yet claim for that population the right of representation in Congress, thus increasing the political power of Southern white men in the General Government far beyond what is due to their own number? Will you consent to this? I will not, if I can prevent it. I am of the opinion that a Northerner ought, in the political sense, to be at least as good as a Southerner. When I vote for the President of the United States, I do not want my vote counterbalanced by what would practically be two ballots given by a single voter in South-Carolina. I cast a single ballot, and let him do the same. I hence like the principle set forth in this section, even if there be a negro in it. I would present to the Southern States this alternative distinctly: Either grant the right of suffrage to the colored people, or accept the consequence of not having them counted as an element of political power to be wielded by white men. Make your choice. If you do not think this people fit to vote, then I do not think them fit to be represented. Your reasons for denying to them political rights shall be my reasons for denying to you an unjust and disproportionate political power. In reconstructing the rebel States, and adjusting the Constitution to the new condition of things, I would stand by this principle to the last. I would not have a politically disfranchised population used as the basis of power by the very men who insist upon this state of things. We must carry the principle. If we do not, the rebel States will increase their political power in consequence of the abolition of slavery.

I am, moreover, in favor of the principle as the friend of the colored man. I can think of nothing more likely to be effectually persuasive with the white people of the South than this very amendment. It will supply a very powerful argument for enfranchising the black population. It makes negro suffrage very largely the political interest of the South. I am not sure that it is not the shortest road to the result. It is certainly good as far as it goes. It is a good thing in the right direction. Perhaps it is all that the public mind is prepared to receive at the present moment. Whether it is destined to be the final proposition of Congress on this subject, I can not tell. It is enough for me to know that it is the present issue. Hence I take the thing as it is, as it is submitted to me, and go for it with all my heart. I do so because it is just and equal as between the States themselves; and I do so because in my judgment it is a long step toward impartial suffrage.

(SECTION III.)

"No person shall be a Senator or Representative in Congress, or Elector of President or 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 and comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability."

You see at a glance that the application of this section is confined exclusively to *perjured* traitors—traitors who, being under oath to support the Constitution of the United States, engaged in the Rebellion, thus adding the crime of perjury to that of treason. They were office-holders, either under the State or under the General Government. In respect to this class of traitors, the section declares that they shall never hold any office, either State or Federal, unless the Congress of the United States, by a vote of two thirds of each House, shall see fit to remove this disability. The disability does not descend to their posterity; it does not affect the great body of the Southern people; it does not destroy the political franchise of these office-holding and perjured traitors; it does not confiscate their property or in any way touch their civil rights; but it does declare that, having violated their oath of office in the commission of treason, they shall not again be eligible to office, unless Congress, by the requisite vote, shall judge it best to restore to them this privilege. Such is the substance, and such the application of this section.

Now it strikes me that the disability imposed aims at the men upon whom rests the chief guilt of the Rebellion. These perjured traitors were unquestionably the great plotters of this treason. But for them it would never have occurred. They were the traitors in office; and they took advantage of their official position to commit treason against the United States. I hold that such men ought to be disqualified for holding office, either State or Federal. They embarked in this treason with forethought; they planned it; they knew what they were doing; and then they pursued the work till their power was subverted at an enormous sacrifice to the Government. As individuals, they forfeited all their rights, and rendered themselves justly amenable to the punishment of death. They ought to be truly grateful to the American people for permitting them to enjoy any rights, yea, for permitting them to live under a government which they did their utmost to destroy. In any other country no such clemency would be practiced toward such offenders. In any other country they would have met the stern and prompt retribution of confiscation for some, banishment for others, and capital punishment for still others. The proposition contained in this section is exceedingly mild and lenient. It falls immensely short of the offense. If there be any good objection to it, it is on the ground of its mildness. It moreover places these offenders on their good behavior in the future. If they shall prove their repentance by showing a truly loyal state of mind toward the Government, then there is a provision for removing the disability; and thus mercy is mingled with justice.

The President once told us that we must make treason "odious." He told us that mercy to the traitor was cruelty to the State. We believed his words, and thought that he meant to carry them into effect. Sadly disappointed in the President, and finding that his plan of reconstruction makes treason honorable and loyalty odious at the South, we turn to this specific measure of Congress, which, if

adopted, will place in the fundamental law of the land a mark on the traitor.

Let me add that this measure is needed for the future safety of the country. So far as I can judge, these perjured, office-holding traitors exhibit no sense of the crime they have committed. They have simply been defeated. By a thousand signs they show themselves to be to-day the same men that they were during the war. They are unrepentant and audacious Rebels, claiming to have been injured, declaring that they were simply fighting for their rights, and even demanding as a right under the Constitution the privilege of sitting in Congress, or holding any other office in the gift of the people, just as if they had been peaceful and law-abiding citizens. Now shall we permit such men—men with such antecedents—men in such a temper—men to conquer whom the nation has poured forth torrents of its choicest blood—I say, shall we permit such men to resume office, and thus be placed in positions of power? I say emphatically, No. I do not think it safe for the country. Let these official traitors “take the back-seats;” and then let them stay there till an outraged Government shall at least have time to take a very good observation of them. I do not want to see your Lees, your Johnstons, your Beauregards, your Hoods, your Forrests, your Stephens, your Breckinridges, your Slidells, your Masons, your Hunters, your men of this cast, walking into the halls of Congress, or any other halls of official power. It will be safe to have these men stand back for a while. Let them wait till we can see how things are working.

But the South will never consent to this, says the objector. The Southern people are a chivalrous people, and they will never permit such a mark of humiliation and disgrace to be placed upon their leaders. I reply, that if the constitutional majority shall pass this section, it will then be the supreme law of the land, and the South will have to consent to it; and further, that if the Southern people attempt to resist it by force, then the Government will simply give them another dispensation of military power. I do not propose to ask traitors as to what they will give their consent to, when deciding what it is best to do in respect to them. As to the bluster of traitors, I have long since cured myself of any special timidities. The truly loyal men of the South are not offended with the measure. They like it, and would like something much more sweeping and radical.

But again, the Southern people in their present temper will elect no men to office except those who would be excluded by this section. Very well; if they choose to do so, then let them do so. If they can stand it, I can; if they are so in love with treason that they must and will have perjured traitors to administer State Government for them, and represent them in Congress, or have no officers of law, then let them try the experiment, and take the consequences. I do not propose to go out of my way for the sake of accommodating such men or such communities.

But, once more, if you exclude this class you will leave no men in the community fit to hold office. You shut off all the great men of the South, the representative men, the men of brains. Not quite, in my judgment. There are at least a few such men as Horace May-

nard at the South; and I think that, upon a pinch, enough of these men could be found to do all the necessary work of holding office. There are also very many men at the South who, though guilty of treason, are nevertheless not perjured traitors—men too of very decent intelligence; and I presume that the Southern people could fill all the offices with this class of men, even if they did not like the Horace Maynards, and men of his stamp. If worst came to worst, then let them go down to the bottom of society and take common men for the service. They probably would not lose much by doing it. I see no difficulty here that can not very easily be surmounted.

A daily Paper in the city of New-York, and of well-known proclivities, has urged that this section of the amendment, even if passed, would be unconstitutional, since it would be virtually an “*ex-post facto* law,” by making the law and assigning the penalty after the crime was committed. Whether a lawyer wrote that editorial or not, I can not tell; but when I read the article, I thought that the writer was prodigiously in want of an objection. It is true that the Constitution as it now reads, and as it will read, says, that “no bill of attainder or *ex-post facto* law shall be passed.” Passed by *whom*? By the Congress of the United States. This clause is simply a restraint upon the legislative powers of Congress. Is it any restraint upon the people in respect to their power of amending the Constitution in the way provided for by the very instrument itself? Not at all. The people may, if they choose, strike out this clause altogether. The Constitution itself simply provides for an amendment, but does not lay down any law as to what that amendment shall be or shall not be. This is always left with the people. Hence to resort to the Constitution to prove the unconstitutionality of an amendment constitutionally passed, is really one of those wonders of transcendental logic which it was reserved for this age to supply. I am sure that there was no such reasoning in old times. Newspapers had not then reached the higher grades of editorial championship. I think I shall not quit the principle for this reason, especially when I remember that a constitutional provision, making a certain class of men ineligible to office, is not in the nature of an *ex-post facto* law at all. It does not arrest them for trial, or invade their personal liberty, but, for reasons of which the people are competent to judge, simply imposes a disability to hold office. Have not the people the right to determine such a question, and so amend the Constitution as to make it express their judgment? I think they have, notwithstanding the learned opinion of the New-York editor.

(SECTION IV.)

“The validity of the public debt of the United States, authorized by law, including debts incurred for the payment of pensions and bounties for suppressing insurrection and 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 slaves; but all such debts, obligations, or claims, shall be held illegal and void.”

The wisdom of this section is upon its very face. It makes sacred the National debt. It also makes it constitutionally impossible for

the General Government or any of the States to assume or pay any portion of the rebel debt. It is quite enough for the people to pay the expenses of conquering treason without being taxed with the expenses of the treason. The usurped authorities of the rebel States were treasonable during the war; and surely you would not consent that loyal State Governments, when organized at the South, should tax the people to pay the debts contracted by traitors in power. Nor do you propose to pay the rebel masters for their emancipated slaves. The loss to them, I know, is very great; but those who perpetrate treason must bear the consequences. They took upon themselves this liability, and have no one to complain of but themselves. These vital points are, by this section, so determined as to place them beyond the reach of politics. The section is obviously a good one. It is just what ought to be incorporated in a plan of reconstruction, whose object is to restore to their political privileges and powers the very communities out of whose treasonable conduct have grown these questions. These questions ought to be settled *when* we are restoring them, so as to put them beyond the reach of debate *after* they are restored. No one, I presume, at the North will urge any objection to the nature of the settlement as here proposed. If any one has objections, he will, as I imagine, keep them for private use, since they will not pay for being published. The bondholders of the rebel debt and the ex-masters of course will not like this section; it does not move in the line of their interests; and this is a very important reason why it should be passed, so as to guard them against temptation on the one hand, and the nation against any dangerous agitation on the other. I do not want to have the Southern people tempted with these questions, or the nation periled by them, when things shall have returned to their normal condition.

(SECTION V.)

"The Congress shall have power to enforce, by appropriate legislation, the provisions of this Article." If the provisions be adopted, then there ought to be power somewhere to enforce them, by appropriate legislation, just so far as may be needful; and Congress is of course the suitable body to be clothed with this power.

You now have before you the plan of Constitutional Reconstruction as submitted to the people upon the authority of Congress. My opinions of it have been expressed in the course of this analysis. I greatly prefer it to the system of Immediate Reconstruction as inaugurated and urged by the President. His system seems to me about as defective and wrong as any thing well can be. This I endeavored to show in the proper place. On the other hand, the plan of Congress I hold to be one of eminent wisdom. It is exceedingly mild in its treatment of Rebels, proposing the very least that can be proposed in consistency with the new position of things and the future safety of the country. I am sorry that the President opposes it. I am quite sure that in so doing he is making for both himself and the country the greatest mistake that a President of these United States ever made. What are his objections to the proposition of Congress, and what are the objections of those who speak and write on his side of the question? That you may see the different aspects of this most important subject,

I propose before taking my seat to detain you a moment with some of these objections.

OBJECTIONS.

1. It is said for the President—and though the saying is not yet his over his own name, still it corresponds with some things which he has said—that the amendment, even if passed, will not be constitutionally valid, because it was proposed by a Congress which declined to admit Senators and Representatives from the rebel States. This objection, if it has any weight or worth, simply denies that the Thirty-ninth Congress was in point of fact *the* Congress of the United States. It may be a rump Congress, a “Congress so-called,” “a body hanging on the verge of the Government;” but it is not the Congress. It is a little too late in the day for the President to say this, or any body to say it for him, since he has already recognized this body as being the true Congress. It was, moreover, chosen by the same votes that made him Vice-President. The fact that the States that rebelled were not represented in this Congress, has nothing to do with the legal validity of the body itself, or any of its acts. They were not represented in the previous Congress. By their own treasonable action they made their seats in Congress vacant; and when they shall be permitted to fill these seats again, is, I conclude, a question not for them to decide, or the President to decide, but for Congress itself to decide. And the fact that Congress does not agree with the President as to the time or the terms, has nothing to do with the legitimacy of its organization, or the reality of its legislative power. The President’s opinion may be entitled to respect; but on this subject it has no authority binding upon Congress, or affecting the integrity of its constitutional being.

2. It has been suggested that Congress may not in good faith act upon the amendment even after its adoption. This supposes that Congress will be untrue to its own proposition. A public sentiment that secures the passage of the amendment, will also instruct the Thirty-ninth Congress as to the will of the people, and at the same time elect a majority in the Fortieth Congress committed to the principles of this very amendment. This furnishes a very strong guarantee that the plan of Constitutional Reconstruction will go into effect, if the people ratify it. Congress will at once apply the principles of the plan by appropriate legislation; and then the excluded States will have to conform thereto in order to secure their representation in Congress.

3. It has been said, that if we wait to settle this difficulty in the way proposed, the country may be involved in the dilemma of two rival bodies, each claiming to be the true Congress—the one composed of the Representatives from the excluded States with the addition of all other Representatives who sympathize with the views of the President, and the other composed of those Representatives who dissent from these views—and moreover, that the President may recognize the former as being, in reality, the Congress of the United States. This suggestion can of course have no application to the present Congress, since this body is already organized, and as such has been abundantly recognized by the President himself. It is too late for the President to apply the idea to the Thirty-ninth Congress, even if he were disposed to do so. In respect to the For-

tieth Congress, the one now being elected by the people, I do not see any occasion for being specially alarmed. The suggestion is certainly a very poor compliment to the President, since it supposes that, in order to carry his ends, he would launch the country into a state of revolution and civil war. Such an experiment would soon satisfy the President that Washington is not Paris, and that the American people are not Frenchmen. The people have once saved the country, and they would save it again were the President to attempt any such thing. It, moreover, takes a Senate to make a constitutional Congress; and no man supposes that the Senate, as now organized, could be made a party to any such revolutionary transaction. And still farther, it requires a majority of all the members of each House to make a quorum; and hence the people who elected the Thirty-ninth Congress can guard themselves against this peril in respect to the Fortieth, by simply electing, as I have no doubt they will, at least a constitutional quorum not at all in sympathy with this plan, if plan it be. They might, if they choose, ask each candidate beforehand, to which Congress he would present his credentials in the event supposed, the bogus one to be gotten up by revolution, or the Constitutional Congress organized under law and according to law. There are not many Congressional districts at the North, I should hope, not even one, that would trust a candidate for a moment if he were committed to this infamous theory of a bogus Congress. I do not impute any such idea to the President. It has been suggested as a dangerous possibility, in the first instance by a journal adopting the President's views; and hence I speak of it. The people will not, I imagine, feel its force as an argument against Constitutional Reconstruction. It is an appeal to their fears, and withal a most discreditable imputation against the President. If I were advocating his policy, I certainly would not address such an argument to the popular mind.

4. It is said again, that this is not the proper time to tinker with the Constitution. First reconstruct these rebel States; and when they are all represented in Congress, then do this work if necessary. I answer, that the present seems to me just *the* time to do it. The thing to be done has direct reference to the question of reconstruction; and hence, if you are going to do it at all, you must do it when the question is being decided. The time to give medicine is when the patient is sick—not before, and certainly not after, he gets well.

5. It is said also, that the States not yet represented in Congress ought to have the privilege of voting upon this amendment. In reply let me say, that there is nothing in the action of Congress proposing the amendment, or in the amendment itself, to prevent the Legislature of South-Carolina, or any other rebel State as reconstructed after the model of the President, from voting on this question. South-Carolina can walk arm-in-arm with Massachusetts if she chooses, just as she did at the first Philadelphia Convention. Congress has not said that she shall not do so, and surely the President has not said it. But is it not manifestly inconsistent to permit a State to vote upon a constitutional amendment, and yet decline to permit its Senators and Representatives to take their seats in Congress? I grant that under ordinary circumstances this would be inconsistent, since the State, if competent to the one, would, ordinarily,

be entitled to the other; yet whatever inconsistency there may be in the present case, is due to the precipitate and exceedingly hasty action of the President. The President acted as if he meant to close up this whole question before it could be reached at all by Congress, or at least place it in such a position, as to make it exceedingly difficult for Congress to reverse or in any way modify his policy. Declining to convene Congress in a special session, he appointed Provisional Governors, some of whom had been prominent rebels; he organized the rebel States according to his own notions; he then suspended the functions of these Provisional Governors, and committed the States to the jurisdiction of their local authorities; he then, by proclamation, declared the Rebellion to be ended, and peace established; he did all this without a single scrap of legislation to guide him, or warrant the action; and finally, when the Congress assembled in December last, he virtually said to them, Gentlemen, the problem of reconstruction is solved; the President of the United States has solved it; it is a thing already accomplished; and what remains for you, is simply to admit these Senators and Representatives from the rebel States to their vacant seats in Congress. Such was the state of things which the President forced upon Congress, seemingly by design. Now, in these difficult circumstances, what should Congress do? Should it declare all the acts of the President to be null and void, and order the whole work of reconstruction to be done over again from the very beginning? This would have been a very radical measure, and in some respects perfectly just; yet the President had carried the case so far without consulting Congress, that such a measure was beset with very great practical difficulties. Should Congress then accept the President's plan, and by its own action make it final with no additions thereto? This was impossible, for the simplest and best of all reason, that Congress did not approve of it. Not having been consulted, as it should have been, at the proper time, Congress did about the only thing it could do; it *arrested* the President's plan by refusing to admit to their seats Senators and Representatives from the rebel States chosen under that plan; it stopped the plan at this point; and, after taking time for deliberation, Congress then proposed to remedy the defects of the plan through the agency of a Constitutional Amendment. Hence, if there be any inconsistency in permitting these rebel States, as organized by the President, to vote on this amendment, while their Senators and Representatives are not permitted to take their seats in Congress, then that inconsistency is due to that complication of things of which the President is the sole author. It grows out of his improper action, and would not and could not exist at all if he had consulted Congress in season upon this whole subject. I suppose that neither the President nor his supporters will find any fault with Congress for leaving the amendment open to the vote of *all* the States. They urge it simply as a technical inconsistency, while they have no objection to the thing itself; and if it be so, then the President, himself, is responsible for this inconsistency. He, and not Congress, has made the case out of which it springs.

6. But again, we are told that the amendment must fail because it will require the vote of at least twenty-seven States to adopt it, and this can never be gained. This is merely a matter of opinion. I

think that it will be adopted. I have very little doubt of it. At any rate, I propose to make a thorough trial of the question. The Eastern, Western and Middle States will probably vote for the amendment without a solitary exception; and this will almost carry it. When the Southern States discover that this amendment is the very least that the country will accept; that in this respect it is the ultimatum; and that, if they reject it, they may reasonably expect something not quite as agreeable to themselves, I believe that they will act the part of sensible men, and take the best they can get. Let us try the thing; we can but fail; and if we do fail, then we shall see what we shall see, and act accordingly.

7. But ought not loyal States to be represented by loyal Senators and Representatives in Congress? What is the use, my friend, in attempting to befool yourself, for you will not befool the people, by ringing the changes upon these phrases? Who denies this proposition? Nobody, unless it be the supporters of the President's policy. It is the very thing which Congress is aiming to secure. We want the States that have fought this Government to be loyal; we want them to send loyal Representatives; we want some reasonable evidence of this state of facts; and as to what this evidence shall be, we think Congress quite as competent to judge as the President.

8. Did you not fight the rebel States to keep them *in* the Union; and if so, why do you now keep them *out*? We do not keep them out. We simply claim the right, and mean to exercise it, of determining upon what principles they shall resume their former relations to the Government. Having withdrawn their Senators and Representatives from the halls of Congress for the purposes of treason, we propose now to say upon what terms those Senators and Representatives shall again take their seats. With these terms they must comply; and if they will not, then they keep themselves out. The terms of the President are not sufficient to meet the wants of the case; and hence Congress has made additions to remedy their defects, as far as possible.

9. But the rebel States were never *out* of the Union; and if so, why are they not entitled to representation in Congress without any conditions precedent thereto? No: they never were out, in the sense of being absolved from the lawful jurisdiction of the Government; but they were *out* in the sense of utterly expelling the authority of that Government from the midst of them, and forfeiting by treason all their rights under the Constitution. So thought the President when he proceeded to reconstruct these States; and so thinks every man who has a clear head and a loyal heart, and no party ends to subserve. The victorious Government is now the party to say upon what terms, if any, forfeited privileges shall be restored.

10. But is there no danger that Southern blood will be warmed up, perhaps to the pitch of another civil war, if we delay the question for a constitutional amendment? I propose to take all the risks of this. We have already whipped one rebellion; and, if necessary, I suppose that we can whip another. On this subject, I take no counsel from my fears.

11. Is there no danger of foreign complications, and possibly war, in which event the rebel States, unless reconstructed immediately, might join hands with our enemies? I do not propose to take this

peril, be it great or small, into the account. The suggestion is, upon its very face, a menace of disloyalty, very much like the old logic of dissolving the Union. If these States wish to try a second rebellion in this form, then I shall not bribe their treason to prevent it. Let them try it, if they wish to do so.

12. But would it not on the whole be better to trust our Southern brethren, and settle the thing up at once without any delay, taking for granted that all things will right themselves afterward? This is about what we find in a very famous letter which has excited not a little comment. The idea is a wonderful display of good nature; but whether it is an equal display of good *sense*, is another question. When a man cheats me once very badly, I want some proof of his honesty before I trust him the second time. So when traitors seek to destroy this Government, I want suitable proof of their loyalty before I restore to them the privileges of law-abiding citizens. While I urge no undue vengeance for the past, I do demand sufficient guarantees for the future. We are settling up the accounts of the war; and now is the time to do it in the safe and proper way. This I think to be good sense, while not at all inconsistent with good nature.

13. Another, reasoning from a very different stand-point, says that the proposed amendment does not go far enough to represent all his views, especially on the question of suffrage. I agree with this individual, whoever he may be. The amendment does not represent *all* my views. I think it to be the very mildest thing of which the case admitted. Yet so far as it does go, I like it; and when the practical question is whether I shall say *yea* or *nay* to it, then I say *yea* with all my heart. It is the only thing now submitted to my choice; and approving it as I certainly do, I shall not seek to defeat it when that defeat would bring disaster to every thing which I hold dear and vital in this issue. Congress, remembering that it had been the universal practice of this country to leave the question of political suffrage to be determined by the States, and that the States, both North and South, had adopted different rules upon this subject, did not think it best to propose a new rule, or any rule to be incorporated into the Constitution of the United States. Hence you are not called upon to vote upon this specific question. You can not vote upon it if you try. You may discuss the question of impartial and uniform suffrage; you may freely express your views; you may do what you can to get the public mind ready for action at a future time; but when you come to the question of present action, you must act upon the thing that is practically before you, and that thing is the constitutional amendment. You certainly will not oppose a thing so good in itself, having so many qualities to recommend it, because it is not *all* that you desire, especially when your opposition would practically place you in the ranks of those who would, if they could, defeat *all* your desires. You certainly will not quit your friends, and refuse to act with them, and virtually go over to your enemies in this struggle, because those friends, who have just as good a right to judge as you, do not place the issue upon as high ground as fully represents your individual opinion. This would not be sensible; and this is what I have to say to those friends of freedom, who, while they object to the President's policy, nevertheless wish that

Congress had taken what they designate as higher ground. Perhaps this higher ground would have defeated the whole thing. It is not quite so clear that the States would have ratified an amendment which, on the question of suffrage, reverses the entire practice of this country. It was, perhaps, wise to leave this question, just as it had always been left, with the States themselves. Congress so judged, and hence so acted; and I, for one, do not propose to make my theory as to political suffrage an objection to an amendment in itself essentially good, because it does not include that theory. I repeat again, this is what I have to say to those who are known as extreme Radicals. I use the term in no reproachful sense, but simply to mark a class of men.

CONCLUSION.

I have now finished the argument upon this whole question, and am, therefore, prepared to tell you in a few closing words what I think to be the citizen's duty in the present crisis. As matters now stand, the citizen's choice lies between the theory of Immediate Reconstruction urged by the President, and that of Constitutional Reconstruction proposed by Congress; and my conclusion is, that the people ought to defeat the former, and thoroughly sustain the latter. This is just what I am trying to do; and when I come to vote, I shall vote just as I have preached. I believe that the people ought to say to the President, that the President of these United States must learn to confine his action to the duties of his office as prescribed by the Constitution; that the legislative powers of this Government are vested in the Congress of the United States; that when Congress passes laws, it is the duty of the President to execute them; that the spectacle of the President perambulating the country, and denouncing a coördinate branch of the Government, is not agreeable to the moral sense of the American people; and especially, that on so great a question as that of reconstruction, the nation wants no summary judgment merely on Presidential authority. These things the people ought to say to their President. It will, I hope, do the President good to hear them, and the nation good to say them, and all future Presidents good to know that they have been said. I further believe that the people ought as distinctly to say to those communities that engaged in rebellion and treason, that, having conquered them in war, they expect to dictate the terms of peace, and moreover, that while those terms shall not be unreasonable, they shall, nevertheless, make treason "odious," and guard the interests and rights of the General Government. And I still further believe, that the people ought to protect the Freedmen and the loyal white people of the South at all hazards, and against all combinations. These things I believe. I believe them to be imperative obligations; and so believing I intend to act according to my faith.

As to party organizations and particular candidates for office, I have, in this place, nothing to say. I am with the party that inscribes these principles upon its banner, and will be most likely to establish them. I am opposed to the party that does not do this. On this question I do not propose to be cheated by tricks, beguiled by soft words, sold out by treachery, intimidated by threats, or diverted from my purpose by any legerdemain of political leaders. I

regard it as a solemn duty to vote this Fall, and so to vote as to sustain the Thirty-ninth Congress, and elect a Fortieth Congress of the same general character. This, while it will carry the constitutional amendment in the Northern, Eastern, Western, and Middle States, will place both the amendment and the nation in the legislative keeping of safe hands. This will, of course, be a signal rebuke to the President; yet, in my judgment, it will be a great blessing to the whole country.

Most sincerely do I regret the moral necessity of uttering a single word, in this place, adverse to the official acts of the Chief Magistrate of this nation. Under ordinary circumstances, I should not do so. Party politics, *as such*, form no part of my profession as a preacher of the Gospel. But, my hearers, these are not ordinary circumstances. We have just closed a dreadful war, not with a foreign foe, but with those who were our fellow-citizens, arraying themselves in the attitude of belligerents and traitors against the supreme authority of this Government. To conquer this treason the nation has spent millions upon millions of money, and sacrificed thousands of precious lives. After a most bloody struggle, the Government triumphed; and, in the mysterious providence of God, the great and good man whom we had learned to trust, and who had just entered upon his second term of Presidential service, fell a victim of murderous assassination. The Vice-President at once became the President. That President, not consulting Congress, not listening to the voice of Congress, has proposed a method of settling the questions incident to the Rebellion, which, if it were carried into effect, would, in my judgment, be exceedingly prejudicial to the best interests of the country. Others may think differently, and they surely are entitled to their own views; yet this is my opinion. The question, too, is so important, it has so much to do with the general weal, and involves so many other questions of justice, freedom, and right, that I have judged it perfectly legitimate to discuss it in the Christian pulpit. I remember that the President is but a man, having the infirmities that are common to flesh and blood, and that, like all other men, he is liable to err. If he has erred, as I sincerely think he has, then let the popular judgment to which he appeals, review the error and correct it. This is the time, just the time, to read, to think, to hear, to speak, and then so to vote on the subject, that the principles which fired the zeal of this nation in the period of war, shall not be unwisely sacrificed in the palmy hours of peace. May a kind Providence save the country from so great a mistake!

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