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Congressional Reconstruction and the Radical Program

Leal R. Edmunds

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CONGRESSIONAL RECONSTRUCTION AND THE RADICAL PROGRAM

A Thesis Presented in Partial
Fulfillment of the Requirements
for the Degree Master of Arts

by
Leal R. Edmunds

The University of North Dakota
1932
This thesis, submitted by Leal R. Edmunds, in partial fulfillment of the requirements for the Degree Master of Arts, is hereby approved by the Committee of Instruction in charge of her work.
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This study is intended to give a survey on reconstruction, not as it affected the South, economically, politically or socially, but as it developed and expanded in Congress. The Radical program on reconstruction has been traced from the first recommendations of Stevens in December, 1865, down to its culmination in the Reconstruction Act of March 2, 1867. Auxiliary phases of the Radical program, such as the Freedmen's Bureau, have been touched upon only in so far as they influenced, or had direct effect upon, Congressional reconstruction.

A study of the debates was made, to see on what grounds, and by what means, the Radicals were able to promote such a plan as the Act of 1867. The debates are not satisfactory as a source of information. The decision on the bill was not reached by the arguments. The debates were based on emotion and passion, were lacking in substance, and showed little evidence of thought or judgment. In fact, the question was not one of debate, but of propaganda. The second problem then was to sift out the propaganda, and discover just what its effect had been on Congress, and on the speakers there.

There are no satisfactory accounts of the debate. Blaine, in his "Twenty Years in Congress," is the best. He discusses the subject, but his treatment is necessarily unsatisfactory, because of his Radical prejudice, and his desire to justify his party. Miller, editor of "Great Debates in American History," devotes a good deal of space to reconstruction, but he appears to have
derived his outline from Blaine, and padded it with quotations suggested by him. Because of this, the discussion suffers from the same faults as the earlier work. Neither of these writers gives any attention to the background of propaganda, on which the debate was based, and without which it loses its full significance.

The study has been made interesting by the people who have taken leading parts. Such men as Sumner, Stewart, Shellabarger, and Conkling could never be uninteresting. Thaddeus Stevens put fire into everything he touched, and he was the prime mover of the party. President Johnson, an unusually picturesque figure, was always in the background.

In order to understand the South of today, one must have an understanding of the reconstruction period. And to understand fully reconstruction in the South, it is necessary to make a careful study of its development in Congress.
CHAPTER I

CONSOLIDATION OF RADICAL STRENGTH
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CONSOLIDATION OF RADICAL STRENGTH

The Joint Committee.

President Lincoln had begun, and President Johnson had continued, the organization of loyal civil governments in the southern states. By December, 1865, when the thirty-ninth Congress met, these governments were functioning, and reconstruction was almost complete. Most of the members of Congress were pledged to support the Executive plan of reconstruction, with its three principles of ratification of the Thirteenth Amendment, repudiation of war debts, and declaration that the secession ordinances were null and void. And not only by Congress, but by the North in general was this policy accepted.

But there were indications of approaching trouble—"the rumbling of Congressional ambitions,"¹ "How to steer clear of the parties and personal contentions of Congress is now my chief responsibility," wrote Seward in November.² But even he did not dream of the full significance of the rumblings, for he thought that the first of the year would see "the clearing up shower of faction."³

In December, 1865, there were in Congress about twenty-five extremists, in both houses, who opposed the President's plan. Among them were several very able men—clever political manipulators, accomplished speakers, experienced and wily politicians. The most influential was Thaddeus Stevens.⁴ He had always been known as an advocate of extreme measures. In the thirties he
had been a vigorous Anti-Mason. When the slavery issue rose he found a real scope for his talents. He had opposed the pro-slavery measures of the Compromise of 1850. He had wanted war, in 1861, because he believed that it would inevitably result in the fall of slavery. He had been one of the first to demand emancipation, and the arming of the negroes. He had supported Lincoln in 1864 because of emancipation. His attitude on reconstruction was original. He had originated the "conquered province theory" on the status of the South; he desired a territorial government for the conquered South; he demanded universal and impartial male suffrage in the South, providing always that the hated rebels were excluded. He would provide for the negroes by a scheme of wholesale confiscation of rebel property.5

Hardly less important than Stevens were several others. Williams, Howard and Morrill in the Senate, and Washburn and Shellabarger in the House held the same views, and were his devoted and able co-workers. Conkling and Boutwell contributed materially to the program.

These men were all ambitious; a few of them were motivated also by genuine convictions. They all opposed Johnson, and Executive reconstruction. There were several reasons for this opposition. Party considerations were foremost. If the Southern representatives should be admitted to Congress in the near future, it would be possible for them to unite with the Democrats, North and South, and so control Congressional policies. Negroes in the South might help to swing some Republican elections, but they had no vote. It was imperative, either that the negroes be given the vote, and so insure some Republicans
from the South, or that the negroes be excluded from the basis of representation so that the dangerous number of Southern representatives would be cut down. In addition to this, there was a very prevalent feeling that Congress had lost ground during the late war, and that it was high time its power should be reasserted. Many of the members also felt a genuine hatred of the South. This motive was especially strong with Stevens, who had never forgiven the Confederates for destroying his iron works at Chambersburg.6

These leaders then, when Congress opened, had four chief objectives on which to concentrate their efforts.

1. It was imperative that they secure a delay on the progress of Johnson's plan of reconstruction, so as to give them time to perfect their own plans and machinery.

2. They must prevent the entry of southern representatives into Congress.

3. They must influence public opinion, both in Congress and throughout the country, in such a way as to increase their faction. In Congress they must have enough to make a majority.

4. It would facilitate matters if they could force an open break between Congress and the President.

With this program before them, these members assembled in Washington in early December. Stevens tried, for the last time, to force his views on Johnson, but he failed. On December 1 these men held a caucus, to concentrate and organize their strength. Hereafter they were known as the Radical faction of the Republican party. The first thing to be done was to prevent the Senate from admitting southern representatives. If this could not be done, then Stevens' program in the House would be useless. The caucus decided that the problem could be solved by
securing a Joint Committee, to which would be referred all matters of reconstruction.

The regular Republican caucus met the next day. Fortunately for the Radicals, Morrill, a Radical from Vermont, was chairman. He appointed a committee to decide what to do about the southern representatives, and, according to schedule, Stevens was a member of the committee. Stevens presented his ready-prepared plan for a Joint Committee, and the resolution seemed so innocent that the Conservatives were completely deceived. Even Raymond, the ablest of Johnson's friends, failed to see its significance. The same committee, dominated by Stevens, quietly directed the Clerk of the House, McPherson, to leave off the roll the names of every person who claimed to represent any one of the eleven seceded states.  

On December 4, when Congress met for the first time, the Clerk of the House, when he called the roll, obediently omitted the names of all Southerners. Protests were unavailing. When Brooks demanded to know why the names were omitted, McPherson attempted to explain, but Stevens hastily interrupted. "We all know," he interposed. McPherson took the hint, and evaded later questions. The election of officers was forced through with no opportunity for nominations. Wilson, of Iowa, presented a ticket of candidates, with a resolution that they be all elected. Objections were evaded by parliamentary technicalities and the whole ticket was elected, by a strict party vote. (138 yea, 35 nay, all Democrats.) Truly this was "revolutionary." Schuyler Colfax, of Radical sympathies, was the Speaker. His speech of acceptance was an impassioned bit of Radical propaganda.

Then Stevens rose to present his Resolution. He wished to
establish a joint Committee, of fifteen members, nine from the House, and six from the Senate,

"to inquire into the condition of the States which formed the so-called Confederate States of America, and report whether they, or any of them, are entitled to be represented in either House of Congress, with leave to report at any time, by bill or otherwise; and until such report shall have been made, and finally acted on by Congress, no member shall be received into either House from any of the so-called Confederate States; and all papers relating to the representation of said States shall be referred to the said Committee without debate."

This was a joint resolution, and so required the President's signature. A concurrent resolution would not require this, but Stevens wanted to force the issue with the President. If Johnson refused to sign the resolution, he at once made a break with Congress. If he accepted it he virtually abandoned his own plans of reconstruction.

The vote here was exactly like the vote on the election of officers. All the Union party supported the resolution, and thus voted against Johnson. All the thirty-five Democrats opposed the resolution.

The Senate was more cautious. The resolution was postponed twice, and was accepted on December 11, only after amendment. The Senate resolution was concurrent, and so did not require the President's signature; the Senate refused to pledge itself to admit no Southern members until the committee reported. December 14 the House accepted the amended Senate resolution, but Stevens advanced a new resolution which included that part of the original plan which had now been omitted, and this passed.

This success was the first Radical victory. By it they secured the first two of their desired objectives—delay, and the
exclusion of Southern members from Congress. In the House they had succeeded in inveigling all of the Republicans, even Johnson's friends and supporters to accept their plan. As Gideon Welles wrote, "The new members, and others weak in their understandings, were taken off their legs, as was designed, before they were aware of it." True, it was an unwitting betrayal, on the part of Johnson's friends, but nevertheless important, as it gave the Radicals an advantage. Johnson was aware of their gain, and spoke of the organization of the Committee as political intrigue. In the Senate the program was not quite so successful. There, only about half the Union party accepted it. But the Senate's action shows they were not wholehearted in their support of Johnson, or they would have refused the resolution in any form. Yet they were not wholly in sympathy with the Radicals, either, since they modified the most objectionable features of the resolution. These Conservatives in the Senate and the House were in a very important position. They held the balance of power between the Democrats and the Radicals. The stake for which Stevens worked was the possession of these ten or twelve men. Johnson did not sense their significance, made no efforts to secure their support, and so in the end he lost them.

Of the fifteen members of the Joint Committee, nine were Radicals, three were Conservatives, and three were Democrats. The Senate sent three Radicals—Williams of Oregon, Howard of Michigan, and Harriss of New York; two Conservatives—Fessenden of Maine, and Grimes of Iowa; and one Democrat—Reverdy Johnson of Maryland. The House members were six Radicals—Stevens of Pennsylvania,
Conkling of New York, Boutwell of Massachusetts, Morrill of Vermont, Washburn of Illinois, and Blow of Missouri; one Conservative—Bingham of Ohio; and two Democrats—Grider of Kentucky and Rogers of New York.

Of the nine Radicals, Stevens, Conkling, Boutwell and Williams were the most important and active. Blow soon came under the influence of Bingham and was lost to the Radicals. All three of the Conservatives were active, Fessenden perhaps most so. Welles says that Grimes controlled Fessenden but if so he remained in the background.17 Reverdy Johnson was the only important Democrat.

The Radical plan suffered one small setback. Fessenden, a Conservative, was named chairman of the Senate group, by that body, and thus automatically became chairman of the Joint Committee.18 It would have been more satisfactory if a Radical had been chairman, but this was not so serious an inconvenience as might have been expected.

**Early Work of the Joint Committee**

On January 6, 1866, when the committee met for the first time, at Stevens' instigation a sub-committee was appointed, to wait upon the President, asking him to take no further action with regard to Reconstruction, in order "to avoid all possible collision or misconception between the Executive and Congress, in regard to the relative position of Congress and the President."19 Johnson handled the matter very skillfully, and announced that,
while he "considered it desirable that this matter of reconstruc-
tion should be advanced as rapidly as might be consistent with 
public interest, still he desired to secure harmony of action 
between Congress and the Executive, and it was not his intention 
to do more than had been done, for the present."20

The first bill which the committee framed had to do with represen-
tation. The question involved here was of peculiar 
importance to the Radicals, since it concerned the number of 
southern representatives. In 1860, by the three-fifths compromise, 
the South had eighteen men in Congress representing negroes. 
After the war, if all the negroes were counted, the South would get 
twelve more—thirty in all.21 Since no negroes voted it was certain 
that none of these thirty representatives would be Republicans. 
Most of the Republicans in Congress were bothered by this problem, 
and there had already been a good bit of discussion of it. Early 
in December, Stevens had proposed that the Constitution be amended 
so that representation would be apportioned among the states 
according to the number of voters.22 Conkling was loud in support 
of the measure, but Blaine opposed it vigorously.23 His chief 
argument was that such a method of apportionment would be unfair, 
since New England had fewer voters in proportion to her population 
than other sections of the country.24 This was due to the educa-
tional qualifications and the preponderance of women. Other New 
Englanders supported Blaine, and Stevens quietly withdrew his 
proposition.

When the Joint Committee came to consider the question it 
adopted a plan of Blaine's which was acceptable to New England.
several States which may be included within this Union, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed; provided that whenever the elective franchise shall be denied or abridged in any state on account of race or color, all persons of such race or color shall be excluded from the basis of representation."

This was agreed to in the Joint Committee with only one dissenting vote, that of Rogers. Reverdy Johnson was absent. The bill was manifestly unfair. It affected only the South, since it was only there that negroes were numerous enough to affect representation. "No northern state will lose by it; even New York, with her great population has so few blacks that she could exclude them all from enumeration, and it would make no difference in her representation." Too, if any one state in the South denied the franchise to negroes, all the negroes everywhere in the South were to be excluded. This might mean injustice to ten states, because of the action of the eleventh. There was the additional point that only six states in the North gave negro suffrage at that time. A single Northern state could deprive all the South, without affecting her own representation, or that of other Northern states.

On January 21, Stevens reported the resolution to the House. He desired that it be passed at once, so as to be sent to the state legislatures in time for them to act on it before adjournment. He thought two hours debate ought to be sufficient, but the debate continued intermittently for a week, when the bill was sent back to the Committee. On Stevens' suggestion, the Committee struck out the words "and direct taxes," and returned it to the House, which passed it the same day. In the Senate,
Sumner's opposition prevailed, and the Resolution failed.\textsuperscript{30} The question had not provoked any brilliant debate. The supporters of the amendment harped on the question "Shall one white man have as much share in the government as three other white men, merely because he lives where blacks outnumber whites two to one?"\textsuperscript{31} Stevens, Fessenden, and Conkling all brought this "unfairness" out, and it was the chief argument used in support of the bill.\textsuperscript{32} Opposition arguments were somewhat better. They maintained that the right to representation does not necessarily involve the right to vote.\textsuperscript{33} They pointed out that the principle "no taxation without representation" was violated by the bill.\textsuperscript{34} They asked why, since the North was so concerned about the right of the negro to vote, the North did not grant her own negroes the suffrage, and if the theory of human rights was so much involved in suffrage, why not grant the franchise to women?\textsuperscript{35} And if fairness was so important to the Republicans, why did they not do something about the Senate, where New England's twelve members dominated?\textsuperscript{36}

The question of civil and political rights for the negro loomed almost as large as that of representation. The Black Codes of the South precipitated the discussion. The Radical press demanded a Constitutional amendment guaranteeing to the negro equal rights with the white.\textsuperscript{37} Discussion was general. On December 4, 1865, Sumner presented his famous resolutions, sections of which demanded "complete enfranchisement of all citizens, and... no denial of rights on account of color."\textsuperscript{38} Two days later Farnsworth presented a series of resolutions very extreme in tone, in which he advocated equal franchise and civil rights for negroes.
He believed that to admit traitorous whites, and exclude loyal blacks, would be "mercy without justice—a crime."39 The Committee took up this problem as soon as that of representation was considered. There was much disagreement within the committee, but finally they agreed on the following resolution:

"The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each state all privileges and immunities of citizens in the several states; . . . and to all persons in the several states equal protection in the rights of life, liberty and property."40

The vote in committee on this resolution stood 7 to 6. Three Radicals, Stevens, Conkling and Harris, opposed it.41 On February 13, Bingham reported the resolution to the House, which received it without enthusiasm.42 It was recommitted to the Committee, again reported, deferred, and never heard from again until it appeared as Section I of the Fourteenth Amendment.43

Gaining the Joint Committee for the Radicals.

January 6, 1866, the Joint Committee appointed four sub-committees "to examine and report upon the present condition of the states composing the late so-called Confederate States of America."44 One of these sub-committees was concerned with only one state, Tennessee.

There had been much discussion and argument in Congress over the advisability of admitting Tennessee. It was generally conceded that the state needed no reconstruction, and was probably entitled to admission, but Congress hesitated to accept her
representatives, for fear of establishing a precedent which might prove inconvenient later. Nevertheless, there was a fairly strong and general sentiment favoring Tennessee.

There was some reason for this special favor. In East Tennessee there had been forty thousand votes cast against secession. These loyal men had supported the Union all through the war, and many of them had served in the Northern army. In March of 1862, President Lincoln had appointed Andrew Johnson as military governor. He had been very popular and successful. In January, 1865, a Constitutional Convention created a new state government which was acceptable. The new Constitution, ratified February 22, declared the secession laws null and void, as well as other acts of the Confederacy, and repudiated the Confederate debts. The state laws were gratifying also. Rebels were excluded from the franchise for fifteen years. A strict oath was prescribed. Discharged Union soldiers were permitted to carry side-arms. Citizens were released from paying state and county taxes for the years of 1862, 1863, and 1864. A reward of $5,000 was offered for the apprehension of Ishan G. Harris, governor of the state in 1861, because he "did use his position as governor to put the state in rebellion."

The sub-committee on Tennessee consisted of two Conservatives, Grimes and Bingham, and one Democrat, Grider. They secured records of the Constitutional Convention, acts of the State legislature, received petitions and examined witnesses. The witnesses were all questioned in Washington. Only ten persons were called. All the members of the Tennessee delegation to Congress were examined, and they all testified that the position of the loyalists in Tennessee would be greatly strengthened if they were represented
in Congress. This opinion was stressed by all the witnesses. The questions asked were stock questions, and the answers were satisfactory. Animosity was chiefly personal. Public sentiment was loyal to the Federal government. The condition of the negro was good. The Freedmen's Bureau was working to great advantage.49

February 15 the sub-committee reported that Tennessee had presented a constitution which was Republican in its form of government, and that the state was entitled "to be one of the United States of America, on an equal footing with the other states in all respects whatever."50 The resolution to this affect was amended, reamended, and finally rejected. On the motion of Williams, the whole subject of Tennessee was referred to a new sub-committee. The vote on this suggestion accepted it, 8 yea to 7 nay.51 It is important as it marks a realignment of sympathies within the Committee. Harris and Blow deserted the Radical fold, and supported the Conservatives. After this time Harris wavers between the two, but Blow became positively Conservative, and an ardent supporter of Bingham. Fessenden's vote was of great significance. He supported the new sub-committee, and thus placed himself for the first time with the Radicals. If he had refused his vote here the new sub-committee would have failed to materialize, and the report of the first one would have been accepted by the Committee. Sentiment in Congress was growing so favorable that it seems very probable that Tennessee would have been admitted without any difficulty. This the Radicals were anxious to prevent, if possible, and they hoped that the new sub-committee would be able to do so.

In the appointment of the members of this new sub-committee
Fessenden shows his Radical leanings again, for he named Williams, Conkling and Boutwell, three of the most extreme members of the group. On the morning of February 19, this sub-committee reported a resolution that Tennessee be accepted upon certain conditions: 1. The State must repudiate its rebel debts; 2. It should "forever maintain in its constitution the provision . . . disavowing the doctrines of secession;" 3. It must disfranchise all rebels. The Joint Committee took no action on the resolution that morning. It was supposed that the President was to take action on the Freedmen's Bureau Bill that day, and the Radicals, seeing an advantage if he returned a veto, wished to postpone the decision.

Gaining the House for the Radicals.

The first three weeks of February were critical ones for the Radicals. Early in the session they had been very successful in their efforts. They had been able to put across their program of delay on Reconstruction, when they got the Joint Committee accepted by Congress. The same Committee assured them that the Southern representatives would not be accepted. They had been making some progress with their propaganda program, and public opinion was beginning to show its influence. In February they succeeded in swinging the Committee to a definite stand in opposition to Johnsonian Reconstruction, when they so skillfully engineered the Tennessee affair. But they were not yet sure of the House, and they were far from sure of the Senate. By a series
of fortunate accidents, clever maneuvering, and bold strokes, the Radicals, under Stevens' capable leadership, were able, within the next two months, to gain both the House and the Senate.

As has been said, Johnson had suspected the Radicals from the first. He had believed that the Joint Committee was a political weapon leveled at him and his Reconstruction policy. Any hopes he might have had from the Southern representatives were gone when Congress refused to admit them. Even the most loyal of States had been refused. Tennessee was his own state, and it would have meant a great deal to him to have her accepted. He had hoped that Maynard, an ardent loyalist, would be able to make some gains for him, but Maynard was left with the rest of the representatives from the South. However, Welles was right when he said that Maynard and the Radicals hand and glove, and Johnson would not have gained even if Tennessee had been admitted. And perhaps Welles was right, for certainly Maynard was Radical later.

Yet Johnson's position was far from hopeless. There were enough Conservatives in Congress to hold the balance of power between the Democrats and the Radicals. If Johnson had been more of a politician, or if he had had a clever politician to advise him, he might have compromised, and conciliated these few men. The Conservative leaders were not anxious to come to an open break with the President. But they would not accept his policy unless they could guide its working out, and this Johnson would not have permitted. Since no effort was made by the Executive to secure them, they gradually drifted toward the Radicals.

Of course the Radicals seized their opportunity, and re-doubled their efforts to secure the favor of these Conservative
members. Yet there was still grave danger that they might come to some agreement with Johnson. This must be prevented, and Stevens embarked upon a deliberate policy of forcing a break between them and the President.

Almost at once a series of unfortunate events opened the way. On February 19, Johnson vetoed the Freedmen's Bureau bill. In his veto message he attacked the bill as unconstitutional and questioned the right of Congress to legislate in such a way for those states which were without representation. "The original bill was necessarily passed in the absence of the states chiefly to be affected, because their people were then contumaciously engaged in the rebellion. Now the case is changed, and some at least of those states are . . . soliciting the allowance of the Constitutional right of representation. At the time, however, of the consideration and the passing of this bill, there was no Senator or Representative in Congress from the eleven states which are to be mainly affected by its provisions." 57

When the Joint Committee met the next day, the order of business would normally have been a decision on the report of the second sub-committee on Tennessee. But "Mr. Stevens said his opinion as to the expediency and propriety of this action . . . had been materially changed since yesterday. The first duty of the committee was to declare the power of Congress over this subject of reconstruction." 58 He accordingly presented a resolution, on which he asked immediate action. "In order to close agitation upon a question which seems likely to disturb the action of the government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven states which have been
declared to be in insurrection, no senator or representative shall be admitted into either branch of Congress from any of said states, until Congress shall have declared such state entitled to such representation." This became known as Stevens' "Declaratory Resolution." The vote in the committee stood 10 yeas to 4 nays with Johnson absent. Bingham and his new follower Blow were the only Republicans to vote against it.

The next day Stevens presented the resolution in the House, and moved the previous question. The Democrats made valiant efforts to delay the vote, but after six hours they saw the hopelessness of it, and the division was called. The vote was 109 yeas, all Republicans; 40 nays, 8 of them Republicans, with Raymond among the number. Before the vote was taken, twenty-three Republicans had left the House, to avoid the responsibility of voting. To catch these men, Stevens moved to reconsider the vote the next day, "since several of our friends who are absent this evening were very anxious to vote." On February 21 the second vote was taken, and again the resolution passed. Stevens had now a definite commitment of the House.

Johnson himself just at this time made a mistake which was of utmost use to Stevens in forcing the breach. On Washington's birthday, the President spoke from the White House terrace to a large audience which had come from a popular mass meeting. The speech was not as bad as it has been described. Most of it was devoted to a defense of his own policy, and was "earnest, honest, and strong." But some of it was in poor taste, and much that he said was ill-advised. For a few minutes Johnson lost his judgment completely, and replied to the calls and questions from
the crowd. He bandied jests about his trade as a tailor; he spoke of Stevens, Sumner, and Wendell Phillips, by name, as traitors; he charged the Radicals with plotting to assassinate him; he refused to speak of Forney, because he did not want to "waste ammunition on a dead duck." But the greatest mistake came in an allusion to the Joint Committee as a central directory, a sort of dictatorial body which was deliberately scheming to keep the South out of the Union.  

The Radical press the next day made much of Johnson's remarks and hinted that he "had had too much bad liquor to make a good speech." The country was scandalized at such lack of dignity in the President. Congress was angry at the unjust criticism of the Joint Committee. Johnson had alienated many people, and that at a critical time when he desperately needed new friends.

On February 22, Fessenden presented Stevens' resolution to the Senate. There was much more debate here than in the House, and it was of a more penetrating nature. Johnson's case was ably presented, but when the matter came to a vote on March 2, there were 29 yeas, and 18 nays. The open break between Johnson and the conservative members of Congress was complete. Both the House and the Senate were committed against the President's policy, and his right to reconstruct the South.

Even yet Johnson's position was not hopeless, nor was the Radical position secure. Johnson had not taken action on the Civil Rights bill. If he signed that, he could still gain enough conservative Senators to block the Radical program. It seemed quite probable that he would sign. Trumbull, Stewart and Sherman of the Senate, all understood that he would. All the members of
his Cabinet, except Welles and Seward, advised that he should. 

It was an anxious time for the Radicals. Stevens tried to goad Johnson into some indiscretion, by his usual method of annoyance and near-insult. On March 10, he made a most irritating speech, at an unimportant Saturday session from which most of Johnson's friends were absent. He began by professing feelings of friendship and respect for Johnson. His praise was interrupted by Price, a Radical, who recalled Johnson's references to Stevens in the Twenty-second of February speech, and asked, "When I hear a gentleman whom I suppose to be the Thaddeus Stevens referred to, speak in such terms in favor of the President, I wish to know whether he is the same gentleman?" This was greeted with laughter, which continued when Stevens answered,

"Does the gentleman suppose the speech to which he refers was a fact? . . . Sir, that speech was one of the grandest hoaxes ever perpetrated. I am glad to have the opportunity to exonerate the President from ever having made that speech. (Renewed laughter.) It is a part of the cunning contrivance of the Copperhead party, who have been persecuting our President since the fourth of March last. Why, sir, taking advantage of an unfortunate incident which happened on that occasion, (laughter) they have been constantly denouncing him as addicted to low and degrading vices. To prove the truth of what I say about this hoax, I send to the Clerk’s desk to be read, a specimen of this system of slander, printed in the leading paper of the Democratic party."

The Clerk read from the New York World, of March 7, 1865, an editorial which deplored the fact that the Vice-Presidency was now filled by an "insolent drunken brute, in comparison with whom even Caligula's horse was respectable." Stevens went on—

"We never credit this slander. But our enemies resort to another expedient. If my friend before me (Bingham) were trying a case of
de lunatico inquirendo, and if the outside evidence were doubtful, he would lead the alleged lunatic to speak upon the subject of his hallucination, and if he could be induced to gabble nonsense, the intrinsic evidence of the case would make out the allegation of insanity. So, Mr. Speaker, if these slanderers can make the people believe that the President ever uttered that speech, then they have made out their case. (Laughter.)

Perhaps such tactics had something to do with goading Johnson into changing his mind on the Civil Rights bill. At any rate, on March 27 he returned a veto.

**Gaining the Senate for the Radicals.**

Early in March the Radicals turned their serious attention to the situation in the Senate. So far, the session had showed the general conservative tendency of that body. Out of the fifty senators, there were only thirty on whom the Radicals could depend. This was a safe majority, but it was four short of being the two-thirds necessary to override a veto. As the session progressed, and Johnson's use of the veto came to be understood, it became increasingly necessary for the Radicals to gain the two-thirds majority. Without it, their program would be halted. Already Johnson's veto had been able to kill the Freedmen's Bureau bill. Speedy action was necessary if the Civil Rights bill was not to suffer the same fate.

For reasons never satisfactorily explained, Stewart of Nevada, Morgan of New York, and Willey of West Virginia, changed their politics in March. During the first part of the session,
Stewart had been a staunch Administration Republican. He had influenced his friend Morgan to such an extent that Morgan also was a Johnson man. They both voted consistently with the Conservatives until the end of March, when Stewart suddenly changed on the Stocton affair, and Morgan followed him. For the rest of the session, with one exception, Stewart remained a dependable party man. On April 4, 1866, he presented a plan of reconstruction, which was his last independent act. 72

Senator John P. Stocton, a Democrat from New Jersey, was the fourth man selected by the Radicals as necessary to make their two-thirds majority. But they tried a new method here. They claimed to find a flaw in his credentials. It was customary in New Jersey for the legislature to elect representatives by a majority vote. Stocton had received a plurality, but the legislature, by a special resolution, had voted to accept him. 73 When Stocton presented his credentials to the Senate they were accepted. Now, however, a question was raised, and the matter was referred to the Judiciary Committee.

In the early part of February Senator Wright, Stocton's colleague, from New Jersey, had been taken ill. Before he went home he had made a pair with Morrill of Vermont. Both men supposed that Wright would be ill only a short time, but he had not returned by March. Morrill was a Radical, and his party needed his vote in the coming contest over the ejection of Stocton. Accordingly, on Wednesday, March 21, Morrill, on Fessenden's advice, sent Stocton a letter notifying him of his intention to break the pair. Stocton showed the note to Reverdy Johnson, and Johnson advised him not to notify Wright, but said that he himself
would see Morrill. The next morning, before the Senate was called
to order, Johnson talked to Morrill. As a result of this inter­
view, Morrill gave Stocton permission to wire Wright. "Senator
Morrill wishes you to know that after allowing you a reasonable
time to get to Washington, he will consider himself at liberty to
vote in my case."74 This telegram was read, and approved by
Morrill, and sent at once from the Senate chamber.

That same Thursday afternoon, the Judiciary Committee re­
ported. After a thorough investigation, the committee had come to
believe that Stocton's election was legal. There was only one
dissenting member of the committee—Clark, a Radical. Trumbull
presented the report, together with a resolution to the effect that
Stocton was entitled to his seat.75 This was vigorously opposed,
even Fessenden speaking against it. That day also, a petition
was received from certain Radical members of the New Jersey legis­
lature, requesting that Stocton be ejected.76 Indeed, it was ad­
mitted openly in Congress that the New Jersey legislature, al­
though it had completed its session, was adjourning from day to
day, for no other purpose than to elect Stocton's successor, as
soon as Stocton should be removed.77

On Friday morning Stocton received a protest from Wright. He
read it to Morrill, and Morrill said that he did not know what to
do.78 The vote came up that afternoon. If Wright had disobeyed
his doctor's orders, and risked his life to go to Washington to
be present for the vote, he would have had to leave his home on a
midnight train Thursday. Even then he might have been too late.
This was Morrill's "reasonable time." Dixon, another Conservative,
was also absent, ill in Washington. He had arranged that, if
necessary, he would be carried to the chamber on a stretcher, and so cast his vote for Stocton.

The vote on Friday stood 21 to 20 in favor of Stocton.79 Stocton had not voted; neither had Morrill. But just before the vote was announced Sumner and Fessenden both called out, "Vote, Mr. Morrill."80 He allowed his name to be called, and brought the vote up, 21 to 21. Then Stocton demanded that his name be called. For a moment the Radicals were too disconcerted to protest, and before they made any move Stocton's vote was recorded. He had kept his seat by a vote of 22 to 21.81

Stocton supposed that the matter was closed. Wright made no effort to leave his sick bed and go to Washington. But on Monday Sumner unexpectedly moved to amend the Journal of the previous Friday, so as to strike out Stocton's vote.82 This of course would cost him his seat. After an all day discussion, Sumner moved "that the vote of Mr. Stocton be not received in determining the question of his seat in the Senate."83 This finally passed, without a division.

Wright was notified of the new turn of affairs. Tuesday morning, just preceding the revote, Stocton read a telegram from him, in which he begged to have the case deferred until Thursday. He would disobey his doctor, and promised to be present on that day.84 The case had already been postponed once, from Monday the 19th, to Wednesday the 21st, so that Clark, a Radical, might be in his place.85 But it was no part of the Radical plans to delay now, and so give Stocton another vote. Wright's plea for delay was refused. Morrill had made another pair, with Foster this time, and he was absent. Stewart, obeying orders, was absent
also. Riddle of Delaware changed his vote for some mysterious reason. When the results were announced it was discovered that Stocton had lost his seat. The vote stood 23 to 20.

This disgraceful affair gave the Radicals their necessary two-thirds majority in the Senate. It is also significant because it shows so clearly the organization and cohesion of the Radical party. "The indecent, unfair, arbitrary conduct of the few master spirits is most reprehensible," wrote Welles. Morrill was not essentially dishonest, yet he broke his word at the bidding of the party. Stocton himself described the situation perfectly. "Morrill himself was very uneasy, and very doubtful, and very anxious to do right, and it was the pressure of his party friends that forced him to give that vote." The party whip was to prove very useful to the Radicals.

The two-thirds majority was gained none too soon. While the final vote was being called a message from the President was received. It was the veto of the Civil Rights bill.

It had been a memorable four months. In December, some twenty-five or thirty Radicals had perfected their organization for the first time. They had decided on a policy of deliberate opposition to the President. They had accepted the leadership of Thaddeus Stevens, and under his guidance they had succeeded even beyond their utmost expectations. The first week of the session they had, at one stroke, secured the necessary delay on reconstruction matters, and prevented the entry of southern representatives
into Congress. By the middle of February they had gained the support of the Joint Committee; by the first of March they had swung the House to their side; by the end of March they had secured the Senate.

They had prepared their way, and now they were ready to begin constructive Radical legislation. Their first work was a plan of reconstruction, the Fourteenth Amendment.
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CHAPTER II

THE FIRST PLAN OF CONGRESSIONAL RECONSTRUCTION
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THE FIRST PLAN OF CONGRESSIONAL RECONSTRUCTION.

Day after day the debate had brought out persistent demands for a Congressional plan of reconstruction. The first day of the session Sumner had presented his famous resolutions, setting forth certain guarantees which Congress should demand from the South.


2. "Complete enfranchisement of all citizens; . . . no denial of rights on account of color."

3. Repudiation of the Confederate debt, and adoption of the Federal debt.

4. Equal educational systems for all, without distinctions for race or color.¹

Two days later Farnsworth of Illinois presented a series of resolutions quite extreme in tone. He would amend the Constitution so as to provide for equal civil rights, and franchise for negroes.²

On January 5, 1866, Rufus Spalding of Ohio presented another series of resolutions, which defined the early ideas of radical reconstruction.

1. Qualified right of suffrage in the District of Columbia.

2. An amendment excluding negroes from representation, except in states where they were granted the suffrage.

3. An amendment prohibiting nullification and secession.

4. An amendment requiring the South to repudiate the Confederate debt, and to assume the Federal debt.

5. An amendment denying former rebels admission to Congress.³

Stevens formally opened the debate on reconstruction on December 18, 1865, when he expounded his "conquered province"
Much of the time for the next four months was spent in exhaustive discussions of the condition of the South under Johnsonian reconstruction. The Radicals organized their debate very cleverly, and bolstered their arguments with pseudo-proof. There was Carl Schurz's report. There were letters and reports from officers of the Freedmen's Bureau. Every Radical in the South, and they were legion, bombarded Congress with letters and memorials. Before many weeks of the session were gone the Radicals had accumulated a very respectable quantity of "evidence."

The debate brought out the general tenor of Congressional opinion. There were certain guarantees which almost all the Republicans, even the Conservatives, demanded. Four of these concern us here.

1. Equal civil rights for negroes.
2. Some plan of equable representation.
3. The exclusion of rebels from holding offices, or from being admitted to Congress.
4. A repudiation of the Confederate debt, and a guarantee of the national debt.

Most of the Radical propaganda centered around these four points. The most important "proof" which the Radicals had was the report of the Joint Committee of Fifteen, on conditions in the South. The four sub-committees, appointed in January, 1866, called witnesses, and asked them stock questions, which were calculated to draw out the type of answers desired by the Radicals. As a result, the report seemed to indicate that there was great need for legislation on those four points.

There were a number of plans for Congressional reconstruction presented to Congress. These were referred to the Joint Committee,
and most of them were never heard from again. Two of them, however, were important—one formulated by Senator Stewart, and one by Robert Dale Owen.

The Stewart Plan

On March 16, 1866, Senator Stewart, of Nevada, proposed a plan of reconstruction which was unique among all those suggested. It considered the South as well as the North:

1. Each southern state was to be recognized "as having resumed its former relations with the government." Representatives were to be admitted to Congress when the state had amended its constitution so as to give negroes equal civil rights, to repudiate its war debts, to yield all claims for liberated slaves, and to grant the elective franchise to all persons on the same terms. Those persons who had been qualified to vote in 1860 were not to be disfranchised by any new tests or conditions.

2. When these conditions had been complied with, and ratified by a majority of the present voting population, a general amnesty was to follow.

3. The loyal states were "respectfully requested to incorporate in their constitutions an amendment corresponding with the one above described."

4. The bill was "not intended to assert a coercive power on the part of Congress in regard to the regulation of the suffrage in the different states, but only to make an appeal to their own good sense and love of country, with a view to the prevention of serious evils now threatened."

This plan was originally intended as a compromise. With it Stewart hoped to unite the President and all Republicans in a common plan of action. For a time there seemed to be some prospects of success. The Radicals were not wholly in opposition to it, as they interpreted the bill to provide for universal suffrage.
Stewart and Henderson, in support of the bill said that Johnson favored its principles. Stewart, in a long speech in the Senate, said, "The proposition which I have presented in this resolution . . . has been endorsed by every leading Union newspaper throughout the North, except perhaps the New York Times." He cited a number of prominent people, both Northerners and Southerners, who favored it.

When Johnson vetoed the Civil Rights bill, all hopes of uniting Congress and the President on a compromise measure vanished. On April 4 Stewart presented his plan again, slightly modified. It was not received enthusiastically, and a week later Stewart moved to amend it, so as to make it more acceptable to the Radicals. On April 16 he appeared before the Joint Committee and addressed that group "at length, in support and advocacy of his resolution." But the bill was not seriously considered by the Committee; in fact they did not even discuss it again. Johnson, when he vetoed the Civil Rights bill, had so alienated Congress that any moderate plan of reconstruction was refused.

The Robert Dale Owen Plan.

The next plan considered was one brought forward by Robert Dale Owen of Indiana. He had been intensely interested in the Freedmen, since 1863 when he had served as chairman of a government commission inquiring into their condition. He had kept in close touch with the South, and had been greatly distressed by the failure of Congress and the Joint Committee to put forward some
plan of reconstruction. In March, 1866, he became so "exercised" over the delay that he went to Washington, resolved to do what he could "toward the judicious settlement of so vital a question." He drafted a proposed amendment to the Constitution, secured the approval of Governor Morton, and then went to Stevens with his plan.

1. "No discrimination shall be made by any State or by the United States, as to the civil rights of persons, because of race, color, or previous condition of servitude."

2. After July 4, 1876, "no discrimination shall be made by any State, or by the United States, as to the enjoyment by classes of persons, of the right of suffrage, because of race, color, or previous condition of servitude."

3. Until July 4, 1876, no class of persons deprived of the suffrage shall be included in representation.

4. Rebel debts shall be repudiated.

This was accompanied by a resolution.

"Whenever the above recited amendment shall have become part of the Constitution, and any State lately in insurrection shall have ratified the same, and shall have modified its Constitution and laws in conformity with the first section thereof, then all laws ... confiscating the property of the inhabitants of such States, or imposing on any of them pains, penalties, or disabilities, because of their participation in the Rebellion, shall be deemed and held to be repealed, ... and senators and representatives from such State shall be admitted, as such."14

Three classes of Southerners were excluded from office until after July 4, 1876. These included persons who were officers in the United States army or navy, or members of the Thirty-sixth Congress, or of the Cabinet in 1860, who had taken part in the rebellion.15

Owen urged the advantages of the bill. He held that the negroes were wards of the government, but added, "We can not separate the interests of the negro from those of the planter. If we chafe
and sour the whites of the South, the blacks must necessarily suffer thereby." The negro was not yet ready for political rights. That was no fault of his own, but he must not be given political powers, which he would use unwisely. There must be time for education. In the meantime, the whites were to rule, and the blacks were to be protected by the government. 16

Stevens was favorably impressed with the first part of Owen's proposition. "I'll be plain with you, Owen," he said. "We've had nothing before us that comes anywhere near being as good as this, or as complete. It would be likely to pass, too. That's the best of it. We haven't a majority, either in our committee or in Congress, for immediate suffrage, and I don't believe the States have yet advanced so far that they would be willing to ratify it. I'll lay that amendment of yours before our committee tomorrow, if you say so, and I'll do my best to put it through." 17 But to the resolution, he objected. "That will never do! Far too lenient."

Stevens did present the plan to the committee and he reported that "All the Republican members received the proposal more or less favorably." 19 Fessenden, Washburn, Conkling and Howard, all approved it. Boutwell and Bingham accepted it with minor reservations. Outside the committee, Wilson "heartily approved it," but Sumner could not accept it. He felt that to vote for it would be to "palter with the right" since it contained "a tacit recognition that the ex-slave holders have a right to withhold suffrage from the freedmen for ten years longer." 20

Stevens was as good as his word, and advocated the amendment in the committee. 21 It was discussed, and on April 21 it was
voted on, section by section, and passed. One Democrat, Reverdy Johnson, supported it. On April 23, on Stevens' motion, the resolution was withdrawn, but the amendment was retained, and ordered reported. After the group had risen to depart some one suggested that it would be courteous to wait a few days until Fessenden, who was ill with the varioloid, should return. This proposal was agreed to, with far reaching results. In the interval between this meeting and the next, at which Fessenden was present, there were Republican caucuses held separately by the members of Congress from New York, Illinois, and Indiana, "to consider whether equality of suffrage, present or prospective, ought to form a part of the Republican program for the coming canvass." They were afraid, so some of them told me," said Stevens, "that if there was 'a nigger in the wood pile' at all, it would be used against them as an electioneering handle, and some of them—hang their cowardice!—might lose their elections. By inconsiderable majorities, each of these caucuses decided that negro suffrage, in any shape, ought to be excluded from the platform, and they communicated these decisions to us. Our committee hadn't backbone enough to maintain its ground. Yesterday the vote on your plan was reconsidered, your amendment was laid on the table, and in the course of the next three hours we contrived to patch together—well, what you've read this morning . . . Damn the varioloid! It changed the whole policy of the country." What you read this morning" was the first draft of the Fourteenth Amendment.
The Fourteenth Amendment.

The plan of Congressional reconstruction finally adopted grew out of the Stewart resolution. In committee that plan was amended and reamended some twenty times, until it lost almost all traces of the original. The resolution, as worked out by the committee, provided:

1. "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."

2. Whenever, in any State, the elective franchise shall be denied to any portion of its male citizens, the basis of representation in such State shall be reduced in the proportion which the number of male citizens shall bear to the whole number of such male citizens.

3. Until July 4, 1870, all former rebels shall be excluded from the right to vote for representatives in Congress, or for Presidential electors.

4. Neither the United States, nor any State shall assume debts incurred in insurrection.

Section 1 was entirely new. Section 2 was substantially the old Representation Bill of January 20. Section 3 was "a measure of whole-exclusion." Section 4 was Owen's, in substance.

The resolution shows that it was "patched together." The wording is not accurate and concise; the marshalling of ideas is not logical and clear. It is difficult to understand why such a piece of work should have been reported from the committee, or why the committee considered three hours' time enough to draft so important a resolution as an amendment to the Constitution, dealing with a problem so tremendously difficult as reconstruction.

On April 30 the resolution was introduced into the two Houses of Congress. Stevens presented the bill to the House, with a
brief speech of explanation. Section 3 drew the fire of most of the members, Republicans as well as Democrats. It would be difficult, if not impossible, to enforce: it was a breach of faith, to give the President power to pardon the rebels, and then disfranchise them: it was foolish to expect that a disfranchised outlaw would, on July 4, 1870, suddenly become a true and loyal citizen: it was simply a party measure, designed to postpone a restoration of the Union. Stevens defended it. "Give us the third section or give us nothing... When party is necessary to sustain the Union, I say rally to your party, and save the Union." But in spite of Stevens' efforts it was evident that the third section would be rejected. A blunder of the Democrats saved it. Several members of that party believed that, if this section were retained as a part of the amendment, the whole amendment would fail. Accordingly, about twelve Democrats voted with the Radicals, and the section was retained by a margin of only five votes. On May 10 the amendment was passed as it had been reported.

In the Senate Fessenden reported the bill, and opened the debate, but nothing was done for a few days. Several amendments and substitutes were offered, but it was not until the last part of May that the debate became serious. Stewart, on May 24, delivered what Kendrick calls "by far the most interesting and statesmanlike speech that was made on the general subject of reconstruction at any time during the session." His thesis was equal franchise, and a general amnesty. Clark of New Hampshire offered a substitute for section 3 defining those ineligible for office, and this substitute was eventually incorporated into the amendment.
The bill was so strenuously and effectively opposed that the Radicals began to fear its defeat. "Defeat of a party program could not be borne; its effects would be disastrous. A caucus was called, and we witnessed the astounding spectacle of the withdrawal for the time, of a great legislative measure touching the Constitution itself, from the Senate, that it might be decided in the secret councils of a party." After five days the caucus came to an agreement. To the first section was added a definition of citizenship. Section 2 remained the same. Section 3 was discarded, and a new one drawn up, enumerating those classes of persons ineligible for office. To section 4 was added a clause declaring that the national debt was valid.

The matter came to a vote on June 8, and the amendment passed, 33 to 11, with one Republican and four Democrats absent. The House concurred in the Senate's changes, on June 13.

The Restoration Bill.

At the same time that the Fourteenth Amendment was drawn up, the Joint Committee had formulated another bill, which was presented to Congress with the amendment. This was known as the Restoration Bill, and provided that whenever the Fourteenth Amendment should have become part of the Constitution of the United States, and any state lately in insurrection should have ratified the amendment, and have modified its constitution and laws in conformity with it, the Senators and Representatives from such state might be admitted into Congress.
After the bill was introduced on April 30, there was desultory debate, in both houses, but nothing was done. After May 29, when the Senate caucus decided to change Section 3 of the amendment, the Senate tabled the bill. The House debated it for three months, without taking any action. Finally, a motion was made to table it. A division showed 101 yeas, 35 nays, and 46 not voting. Both houses had failed to take action on the bill which was the "capstone" of the whole matter of Congressional reconstruction. This bill "was a constituent part of the proposed plan of reconstruction, if that plan was to be reconstructive in anything more than a contingent sense."  

The Radicals, however, must do something to show, at least by implication, that Congress had made a real plan of reconstruction. On July 19, word was received that Tennessee had ratified the Fourteenth Amendment. By the end of the session both houses had admitted representatives from that state, and thus had given the impression that the other southern states would be received in the same way, when they had ratified the amendment. Seward wrote, on July 23, "Congress . . . is really engaged, at last, in removing the embarrassments which surround the Tennessee question, and is preparing to admit that state. This once done will be the harbinger of the final restoration of all. My solicitude about affairs will . . . be relieved when I see Tennessee restored." Many other people believed the same thing, which was just what the Radicals wanted them to believe.
Debate on the General Question of Reconstruction.

On December 18, 1865, Stevens opened the debate on reconstruction, by expounding his famous "conquered province" theory, on the relation of the South to the Union. For four years the Confederate States had waged war with the Union, and had been acknowledged belligerents by the United States and foreign powers. This was supported by law. Justice Grier, in his decision on the Prize Cases, held that the southern states were belligerents, and that a state of belligerency might exist even when the two parties were not foreign nations. The argument that the South did not make war because the Constitution forbids it, was absurd. It was like saying that A did not kill B, because he could not have, since the law forbids murder. The war was waged by states, not individuals. Individuals do not make war. The Southern Confederacy considered itself to be out of the Union. In view of all this, certainly the North was justified in treating the South as a conquered belligerent.

Congress must determine the condition of the conquered states, and provide for their government. This government should be territorial in form, and the qualifications for voters should be fixed, so as to exclude all rebels, and include all loyal persons without regard to race or color. The South should remain in its territorial status until Congress had made any desired changes in the Constitution. Such changes should include a re-apportioning of representatives according to voters and not population, and
and should give the Federal government authority to levy export duties such as would insure a proper tax on cotton. Of course these amendments would not be submitted to the southern states, since they would be simply territories. It should be solemnly decided whether Congress or the President had the power to reinstate these provinces. By all rights, the power belonged to Congress, and it was time that Congress should assert its sovereignty, and assume something of the dignity of a Roman Senate. 39

After this date, two men led the debate, Raymond of New York for the Conservatives, and Shellabarger of Ohio for the Radicals. The speeches of these two men epitomize all the argument made on reconstruction, up to February, 1867. Other speakers of both parties simply fell into line, and worked over this material. 40

Arguments of the Conservatives, with the Radical Rebuttal.

Conservative Constructive Argument. How did the South get out of the Union? The ordinances of secession simply declared an intention to secede. The South failed to maintain its ground on that intention, and was defeated by force of arms.

Radical Rebuttal. The Southern states did not leave the Union by virtue of any ordinances of secession. They left it when they superceded and destroyed loyal government in their states.

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Conservative Constructive Argument. Stevens was wrong when he
I said that the states forfeited their existence by the fact of rebellion. Individuals in the states may have done so, but the states as states, did not. There is no law which can punish a state, as a state, for any act it may perform. Our Constitution can not, since it does not deal with states.

Radical Rebuttal. The Conservatives have made a distinction where none exists, in stating that the people of a state may forfeit their rights, but that this does not effect the condition of their state in the Union. This says that individually, treasonable persons have no political significance, but collectively, they can be called a state, and take their places in the Union! In the Prize Cases, the Supreme Court judged that individuals in the South "acted as states" in organizing the rebellion. Court decisions to this effect may be summarized.

1. The rebel states "acted as states" in organizing the rebellion.

2. All their citizens, innocent and guilty, were thereby made "enemies of the United States."

3. Even though they were "enemies," they were not "foreign states."

4. The United States may exercise over these people both belligerent and sovereign power, and therefore we may try Davis for treason, under our sovereign power.

5. By inference. The states became enemy territory, governed by enemies, and thus they can not have been having any political rights in this Union.

It mocks the law to say that those people or states have any right of government in the Union, when every man, woman and child residing in them have been declared, by two unanimous judgments of the Supreme Court, to be
public enemies of the United States.

The Constitution does deal with states. It imposes restraints and obligations upon them as states. It secures rights and confers powers upon them, as states. In fact, it has fifty or more important provisions which deal with the states as states.

Congress assumed that the rebel states had no rights as states, when the blockade was established, and when the revenue and tariff acts gave preference against the South.

Conservative Constructive Argument. The Southern states can not be said to have forfeited their existence. If there had been no Constitution of any sort in them, then they would have ceased to exist, but there never was a time when their organization as states was destroyed.

Radical Rebuttal. An organized rebellion can not be an organized "state." In those eleven districts there was no obedience to law, except the law which compelled the defiance of all "supreme laws;" there was no government except one which enforced disloyalty to governments; there was no observance of the law of nations, unless that is to be found in remorseless assassination and murder.

Conservative Constructive Argument. Since the states are within the jurisdiction of the Constitution, they are really and
truly states of the Union, just as they were before the war. Their practical relations to the Constitution have been disturbed, and our victory in the field has given us the means of restoring their relations to the government.

Radical Rebuttal. The combined forces of the Constitution, public law, the dictates of reason, justice and common sense, and repeated and unanimous decisions of the Supreme Court, have established that organized rebellions are not States, and have forfeited their powers and rights as states.

States have none of the rights or powers of states where they do not recognize their obligations and duties.

Johnson himself says that his power over reconstruction comes from his Constitutional duty to guarantee to every state in the Union a republican form of government. If the old governments have simply come back, then the states already have republican forms of government, and reconstruction is not necessary. In this the President holds our opinion, and we can not attack him. They attack the President who hold that the old state constitutions are still there in the South, for if that is true, then Johnson has violated them.

Arguments of the Conservatives, Not Refuted.

If we consider the South to have become a separate power, and to have been out of the Union, then we have accepted the
doctrine of state sovereignty, since that was their justification, and the basis on which they committed their action.

If the South is not still in the Union, but became effectively separated from it, then we can not speak of loyalty there, any more than we can of treason. Loyalty to the Union was loyalty to a foreign nation, and treason to their own.

If the Confederacy was really independent, then it had the right to contract debts, and we, having taken the country over, have become heirs to those debts. Foreign countries have made claims for payment of debt on this theory, and the Secretary of State has denied them, on the ground that the Confederacy could not contract debts. Yet if it was independent, surely it could have done so.

Arguments of the Radicals, with the Conservative Rebuttal.

Radical Constructive Argument. Reconstruction is and ought to be a function of the legislative branch of the government. The Executive has overstepped his duty in undertaking to set up civil governments in the South. The Executive can not exercise any civil function. Hence what he has done he has accomplished by means of a usurpation of power.

Conservative Rebuttal. The Constitution expressly
gives to the President the duty to guarantee to every state in the Union a republican form of government. This is what his reconstruction policy will accomplish. He is also justified, because his work in the South is simply a continuation of his war duties, and falls under his power as commander-in-chief of the army and navy.

It was the duty of Congress, as it was of all the departments of the government, to attempt to prevent the South from seceding. The moment that this was accomplished, and the insurrection was over, Congress ceased to have any power over those states, except such as it has over any state.

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**Radical Constructive Argument.** The southern states were surely out of the Union, and they possess none of the attributes which are necessary, under the Constitution, to readmit them to the Union. Therefore, they must remain either subject states or territories, until they are ready for readmission. To give them the status of territories is the most generous thing to do.

**Conservative Rebuttal.** The southern states are not out of the Union, and never have been. They tried to leave, but force of arms decided against them. Therefore they ought to be allowed to resume their normal relations with the government.

In addition to these arguments, there was a very great deal
of discussion as to conditions in the South. This was not true parliamentary debate, but consisted simply of contradictions. The Radicals had their mass of "evidence and proof" for support, while the Conservatives had practically nothing but Grant's report to fall back upon.
REFERENCES.

1) Globe, 39 Cong., 1 sess., 2.
2) Ibid., 15.
3) Ibid., 133.
4) Ibid., 72-75.
5) See infra.
6) Globe, 1437.
8) Globe, 1754.
9) Ibid.
10) Ibid., 1753.
11) Ibid., 1906.
12) Journal, 82.
14) Ibid., 663-664.
15) Ibid.
16) Ibid., 662.
17) Ibid., 663.
18) Ibid., 664.
19) Ibid.
20) Ibid., 665.
21) Journal, 83.
22) Ibid., 83-89.
23) Ibid., 89-97.
24) Owen, op. cit., 666.
28) Owen, op. cit., 667.
29) *Globe*, 2459 et seq.
30) *Globe*, Garfield, 2463; Bingham, 2543; Blaine, 2460; Finck, 2461; Stevens, 2544; 2545.
31) Kendrick, 321.
32) *Globe*, 2265, 2560, 2798-2804, and 2770.
35) *Journal*, 117 et seq.
36) *Globe*, 2265 and 2288.
37) DeWitt, David Miller, *The Impeachment and Trial of Andrew Johnson*, 95.
39) *Globe*, 72-75.
40) *Globe*, 121-126, and 142-145.
41) See *infra.*, Chs. III, IV, and V.
CHAPTER III.

PROPAGANDA AND PUBLIC OPINION.

Very shortly after the Radicals began to gain political strength, they saw the necessity for winning public opinion. Such a program as theirs would surely fail if it was not backed by a strong and constructive support. Accordingly they made a deliberate effort to gain converts for their party. This effort is seen, not only in the debates in Congress, but in the current literature of the time. The extent of Radical propaganda outside of Congress can be discussed only briefly here, but a rapid survey of its scope is necessary, to gain an understanding of Radical tactics.

Ever since the end of the war there had been published a great deal of literature about the South, which had been eagerly read and discussed by the people. Radical specialists made very clever use of this interest, and flooded the country with propaganda. A number of influential daily newspapers, with their wide circulations, supported the party, and these became invaluable means of disseminating propaganda. Of the important magazines, the Atlantic Monthly, Harpers' Monthly, and Harpers' Weekly were strongest in their support of the Radicals.

There were a number of avenues by which the Radicals approached their purpose. A very important one was abuse of the President, both personal and political. Sometimes this was subtle and guarded, but more often, especially as the Radicals gained confidence, it was vulgar and crude. One sample will suffice.

"On the twenty-second of February, the birthday of Washington, Andrew Johnson disgraced himself (if that were possible) and outraged the memory of Washington and the memory
of all the dead heroes of the Republic, by making a speech to a crowd of rebels and Copperheads. . . . Never before was the Presidential office so disgraced by its occupant. Shame on the nation that places such babbling, drunken idiots in places of power."

The same article uses the following epithets: "His Royal Drunkenness," "Andy the Befuddled," "Andy the Mellow," "His Bachanalian Majesty," "The Old Sot," "The last American Pharaoh," "Andy of assassination fame," "A bullet-headed President, made president by a bullet," and others still more objectionable. The Radical press was filled with abuse of the kind, and even respectable journals and magazines sometimes printed it.

Of course, reports of outrages in the South were played up extensively. This was, perhaps, the most effective weapon of the Radicals. They never let an opportunity slip to publish, to relate, or to hint at, stories of the terrible sufferings of the loyalists in the South, whose only crime was loyalty to the Union. Scores of articles were written, travelers' reports were featured, letters supposed to have been written by loyalists were published.

Of course, current news events were utilized. An instance of this was the New Orleans Riot which furnished rich material, not only on outrages, but on the culpability of Johnson. Stories of Freedmen became popular, and were printed everywhere. Essays and editorials were used, of course, and even book reviews were not neglected. The Atlantic Monthly reviewed two books together, Abbott "Prison Life in the South," and Moen "English Travellers and Italian Brigands," in order that an opportunity might be made to compare Southerners unfavorably with the Italian brigands. War horrors were recalled, and kept in circulation, in order to stir up sectional feeling.
The propaganda of the Radicals in Congress is more important for the purpose of this study. When the first session of the Thirty-ninth Congress met in December, 1865, the Radicals began their campaign to convert men to their politics. Some of the same methods of attack were used here as were used outside of Congress. Especially were reports of outrages stressed, told in letters or by hearsay.

Sprinkled all through the debate, from early meetings of the first session in 1865, down to the passage of the Reconstruction Act in 1867, are letters, purporting to have been written by persons in the South. These persons were supposed to be northern travellers, or, more often, southern loyalists. With one accord they painted gloomy pictures of the shocking conditions in the South, and implored Congress to act at once in their behalf, lest they be brutally murdered, or at the very least, driven out of their homes. They usually suggested a plan of intervention, and the plan coincided with the particular scheme which happened to be in favor with the Radicals at the time. These letters were written to Radical members only, and the recipients thoughtfully withheld the signatures. The excuse was that if the identity of the persons became known, they would surely meet some dreadful destruction. Sumner appears to have received more letters than anyone else. (Perhaps he was a more prolific letter writer.) In one speech he quotes parts from thirty-four letters.

"Mr. Sumner, I have in my hands a letter from Alabama, from which I will read a short extract, as follows:

'Another big trade is going on; that of running negroes to Cuba and Brazil. They are running through the country dressed in Yankee clothes, hiring men, giving them any price they ask, to make turpentine
on the bay, sometimes on the rivers, sometimes to
make sugar. They get them on the cars. Of course the
negro don't know where he is going. They get them onto
the bay, and tell them to go on the steamer to go around
the coast, and away goes poor Cuffee to slavery again.
They are just cleaning out this section of the country
of the likeliest men and women in it. Federal officers
are mixed up in it, too.'

**Mr. Johnson.** Who writes the letter? Give the name of
the writer.

**Mr. Sumner.** It is from a person in Alabama, whose name I
am requested not to communicate; but the gentleman is
well known to members of the other house."

"**Mr. Sumner.** I have in my hand a letter which I received
yesterday from a friend of our cause in Texas, and which
is so important in its statements . . . that with the
indulgence of the Senate I will read briefly from it.

**Mr. McDougall.** Allow me to ask the Senator to read the
signature. Let the name of the writer be given.

**Mr. Sumner.** I shall not read the signature—

**Mr. McDougall.** Ah! Ah!

**Mr. Sumner.** And for a very good reason—that I could not
read the signature without exposing the writer to violence,
if not to death. The letter is dated in Texas, November 19,
1866. . . . I read as follows:

'Dear sir; The really loyal men in this part of Texas
concur in thinking that the first duty of the Republican
party at the approaching session of Congress should be
the passage of an act abolishing the sham state govern­
ments that have been set up in the South without authority
of law. . . .

Our so-called Legislature adjourned on Tuesday last.
It was a worse and more disloyal body than the convention.
All its members, except about six, showed by their speeches,
proposed bills, and acts, that they were not merely in
law, but in fact, public enemies of the United States.
The laws they have passed are infamous, and amount to
neither more nor less than a cunningly devised system in­
tended to affect a practical restoration of slavery. For
example: . . . The leading object of our legislature
seemed to be to make contracts to labor specifically en­
forcable, and at the same time, by stay and exemption
laws, the contracts to pay for labor unenforceable. . . .
I learn from persons of character that some of the members of our "Legislature" (Mr. Short, an ex-rebel captain for instance) boasted in private that they had never taken the amnesty oath prescribed by the President, and that in one county of Texas where only thirteen of the inhabitants had taken the oath, some two-hundred voted at the last election.

We have been in a horrible state of suspense here. Had the earlier northern elections gone against the Republican party I should have had to promptly make my escape from Texas, if indeed, I could have got off at all. The spirit of the rebellion, down to that time, had waxed fiercer and more intolerant than it was in the middle of 1861. . . . If Congress does not wipe out all that has been done, but abandons the loyal whites and the poor freedmen to rebel rule, I must and will emigrate. Many others will do the same. In what a horrible condition will those be who can not get away!"10

Memorials were used in the same way, but were infrequent, perhaps for memorials must be signed.

"Mr. Grinell. I had intended, before I closed, to have read an extract from a memorial addressed to this house by Judge Thomas J. Durant, of New Orleans, in behalf of the loyalists, in which he describes truthfully the condition of that country, the murders and outrages that prevail, and I might read from the scores of letters just sent to the venerable gentleman near me (Mr. Stevens) which are enough to stir the blood of age, and ought to convince us of the necessity of early and prompt action. I will ask to have the concluding portion of the memorial read.

'We pray you then, to set aside these hostile organizations, illegally and unconstitutionally created and incapable of self government, because hostile to the nation; and, under the nation's power as conservator of the peace, authorize the loyal and true men, regardless of race or color, to organize governments, excluding so many of the unrepentant rebels as shall be found necessary for the permanent securing and preservation of the Union. . . . We plead for these things, not for ourselves and fellow-sufferers only, but for our still bleeding country, from which capital, enterprise, free labor, free speech, the blessings of education, the rapid strides of internal improvements, and large progressive views are virtually expelled by ignorance, stupidity, bigotry, treason and rebellion.

We ask for early, speedy, sharp, short, and decisive action; and we ask it in the names and behalf of the millions of devoted friends of the Union inhabiting the best parts of the continent, no one of
whom can claim that he enjoys the blessings of free republican government, or the security which the Constitution of the United States guarantees to the citizen.

As in all debates where the issues are closely allied with passion, there was a great deal of emotional display during the sixteen months of debate on reconstruction. This was carefully fostered by the Radicals, who saw in it the best psychological approach to their ends. Of course, there was much genuine emotion and sincere feeling in Congress, but there was also much affectation of sentiment, and oratory which was deliberately kindling. Stevens, Boutwell and Sumner were masters at this sort of thing. Their speeches are full of highly inflammatory passages.

"Does the gentleman yet ask for the 'specific act' that deprived these States of all the rights of States, and made them 'enemies'? . . . They threw off, and defied the authority of your Constitution, laws, and government. They obliterated from their State constitutions and laws every vestige of recognition of your government; they discarded all official oaths, and took in their places oaths to support your enemy's government. They seized, in their States, all the nation's property. Their Senators and Representatives in your Congress insulted, bantered, defied and then left you. They expelled from their land or assassinated every inhabitant of known loyalty; they betrayed and surrendered your armies; they passed sequestration and other acts in flagitious violation of the law of nations, making every citizen of the United States an alien enemy, and placing in the treasury of their rebellion, all money and property due such citizens. They framed iniquity and universal murder into law. They besieged, for years, your capital, and sent your bleeding armies in rout, back here upon the very sanctuaries of your national power. Their pirates burned your unarmed commerce upon every sea. They carved the bones of your unburied heroes into ornaments, and drank from goblets made out of their skulls. They poisoned your fountains, put mines under your soldiers' prisons, organized bands whose leaders were concealed in your homes, and whose commissions ordered the torch and yellow fever to be carried to your cities, and to your women and children. They planned one universal bonfire of the North, from Lake Ontario to the Missouri. They murdered by systems of starvation and exposure, sixty thousand of your sons, as brave and heroic as ever martyrs were. They destroyed in five years of horrid war another army so large
that it would reach almost around the globe in marching columns; and then, to give the infernal drama a fitting close, and to concentrate into one crime all that is criminal in crime, and all that is detestable in barbarism, they killed the President of the United States.\textsuperscript{12}

This passage comes from a speech of Shellabarger, the keenest Constitutional lawyer among the Radical group, and the man who, perhaps more than any other single Radical, won the confidence and respect of conservatives. Sumner appealed to the fanatic, Stevens spoke to the politician, but Shellabarger reasoned with the conservative patriot, and often he had his way. Except for Shellabarger, the Radicals had few men who could meet the straightforward attacks of the Conservatives. Often several successive speeches would have nothing in them of worth or argument, but simply empty emotional appeals, which threw a kind of hypnotic spell over the meetings, and successfully blinded many conservatives to the real issue.

Pleas for loyalists were most frequently used.

"Already fifteen hundred Union men have been massacred in cold blood—more than the entire population of some of the towns in my district—whose only crime has been loyalty to your flag, and in the single state of Texas alone; in all the revolted states, upon the testimony of your ablest generals, there is no safety to the property or lives of loyal men. Is this what the loyal North has been fighting for? Thousands of loyal white men driven like partridges over the mountain, homeless, houseless, penniless, today throng this capital. They fill the hotels, they crowd the avenue, they gather in these tesselated and marble corridors, they look down from these galleries, and with supplicating eyes they ask protection from the flag which floats above the Speaker's chair; a flag which to them has thus far unfurled its stripes, but concealed the promise of its stars."

For myself, may my right hand forget her cunning, and my tongue cleave to the roof of my mouth if I desert them. . . . The duty of today, and now, of this hour, is to stand by the men who stood by the flag, the noble Union men of the South, black and white. For one, I mean to do it to the end of the chapter. . . . While I am ready to extend the olive
branch of peace when it can be received in the spirit of peace, I now vote to unsheath the great sword of the Republic, and place it in the hands of the greatest captain of the age, that he may demand once more, in the name of the God of justice, the *unconditional surrender of the rebellion.*"¹³

In line with their policy of stirring emotion and passion, the Radicals played up the stories of outrages committed in the South. These were especially frequent in the first session, and in the first two months of the second session.

Senator Wilson, of Massachusetts, always carried a vest pocket notebook, in which he entered all the reports of outrages which he heard.¹⁴ Of course he exposed himself to a good deal of ridicule, but nevertheless his stories were effective. He presented the contents of his booklet in the debates, either as stories, or in tabulated form.

Two examples, the first from Sumner and the second from Stevens, show the effectiveness of the stories. In many cases the extent to which the Radicals were willing to go seems almost absurd.

"I do not stop to dwell on the instances of frightful barbarism. There is one which has been authenticated in the court of the prevost marshal, where a colored girl was roasted alive! And another writer, in a letter just received, describes a system of 'burning' in Wilkes county, Georgia, as 'a mild means of extorting from the freed people a confession as to where they have their arms and money concealed.' He says 'They were held in the blaze.' Think of it sir, here in our country, 'they were held in the blaze.' And the national government looks on!"¹⁵

"A gentleman from Richmond, who had personal knowledge of the facts, told me the circumstances of the murder. A colored man, driving the family of his employer, drove his wagon against a wagon containing Watson and his family. The wagon of Watson was broken. The next day Watson went to the employer of the colored man and complained. The employer
offered to pay Watson every dollar that he might assess for the damage that had been done. 'No!' said he, 'I claim the right to chastize the scoundrel.' He followed the colored man, took out his revolver, and deliberately shot him dead in the presence of the community. No civil authority would prosecute him; and when taken into custody by the military authority, he is discharged by order of the President.

2) See Whipple, E. P., "The President and Congress," Atlantic Monthly, XVII, 500 (April, 1866); Whipple, "The Johnson Party," Atlantic Monthly, XVIII, 374 (September, 1866); "The President and the New Orleans Massacre," Living Age, XCI, 121 (October, 1866).


4) See "The President and the New Orleans Massacre," Living Age, XCI, 121 (October, 1866); Harpers' Monthly, XXXIV, 670 (April, 1867). Beale, The Critical Year, has quotations from the press, and from Stevens' Bedford speech.


6) See Atlantic Monthly, XVIII, 518 (October, 1866); Stowe, Mrs. Harriet B., "The Chimney Corner," Atlantic Monthly, XVIII, 374 (September, 1866); Douglass, Frederick, "Reconstruction," Atlantic Monthly, XVIII, 761 (December, 1866).


8) Globe, 39 Cong., 1 sess., 91-95.

9) Ibid., 146.

10) Ibid., 2 sess., 15.

11) Ibid., 537.

12) Ibid., 1 sess., 145.

13) Ibid., 2 sess., 1077.

14) Ibid., 1375; App. 155.
15) Ibid., 1 sess., 94.
16) Ibid., 2 sess., 251.
CHAPTER IV

OFFICIAL REPORTS OF CONDITIONS IN THE SOUTH
In the summer of 1865 President Johnson asked Carl Schurz to go on a tour of the South, to gather and report information on the conditions existing there. Schurz hesitated, because of financial reasons. The Radicals saw here an excellent opportunity to get "proof" of Johnson's failure in the South—proof which they could use in their campaigning for converts. Stanton told Schurz that it was "absolutely necessary" for the "cause" that he should go. Sumner quietly offered to raise a subscription, and this made the trip possible. Schurz left for the South with very definite ideas as to what his party expected him to find there; of course he found those things.

He left in July, 1865, and spent six weeks touring the states of South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Texas. At intervals he sent reports to the President, and published a number of unsigned letters in Radical newspapers. When Johnson rebuked him for his unauthorized publication in the papers he replied angrily that he was doing it unofficially, and that the people had a right to know what he was finding out about the South.

His report was simply a piece of Radical propaganda, which intended to show that conditions in the South were not satisfactory, and that the President's policy was not wise. It may be summed up in a few words.

The masses of the southern people, and most of the southern leaders, are loyal, in so far as loyalty can
consist of submission to necessity. Except in rare cases, there is an entire absence of that national spirit which forms the basis of true loyalty and patriotism.

The ordinances abolishing slavery were passed by the South only under pressure, and the South will not hesitate to evade them, in spirit or practice. Emancipation is necessarily observed in outward form but the negro is regarded, not as free, but as the slave of society. Legislation on the part of the southern states has expressed the tendency toward this new form of slavery.

There is a tendency to deprive the negro of his rights. This will increase, and the result will be to plunge the South into resistless fluctuations and anarchical confusion. The only practical method of avoiding this evil is to continue Federal control until conditions settle down under a full recognition of the rights of free labor. Of course, federal supervision is, in itself, not wholly desirable, and the period in which it must be exercised ought to be made as short as possible. Two things might help in this. First, the government ought to declare that the South will be under supervision until society is stabilized there. This will have a salutary effect on the attitude of the South. Second, the government ought to endow the negro with some measure of political power. The South will never do this voluntarily, and the only way to accomplish it will be to make it a condition precedent to the readmission of the South into the Union.
The report was all that the Radicals had hoped for. Sumner wrote Schurz that it was "all that I had expected; very able, elaborate, complete, full of facts and ideas." It was the more valuable because it was made by a man who inspired so much respect and confidence. People did not suspect him. Had not Johnson himself sent Schurz there? And had not Schurz gone down a Johnson man, and come back convinced that Johnson was wrong? He made it very clear that Johnson's policy was failing to restore the southern states to such a condition that they could properly take their places in the Union.

Another fruitful source of Radical propaganda was found in the official reports of the officers of the Freedmen's Bureau. These reports were very contradictory, and differed from district to district, but in general they formed a mass of material very useful to the party.

The very nature of the Bureau prevented these accounts from presenting true pictures of conditions in the South. The Bureau was an organization of the Radical party, legalized it is true, and set in motion by legislative authority, but utilized for party purposes. The reports were sometimes deliberately falsified, and almost always colored by the necessity to paint dark pictures of conditions, in order to assure the continuance of the Bureau. Even when conditions were exactly as they were reported, the Bureau was sometimes at fault. Bureau officials were directed to do things which were deliberately irritating to the southern whites, so that they might be goaded into some violence which would furnish talking points for the Radicals. Any indication of disrespect or
disorder was to be reported at once to the Radicals in Washington, so that it could be used there. Race conflict was intentionally fostered. Negroes were given false impressions of their rights and privileges, and so led to make themselves very annoying to the whites. It was even claimed that sometimes Bureau officials suggested to negroes that they do things which were certain to cause disorder which could be reported to Washington, and furnish material for sensational articles. No wonder that one young officer in Georgia found his work "fearfully disgusting."

Of course, not all of the officials were dishonest. The higher officers were men of sincerity and integrity. But there were abuses of power, especially among the lower officials.

The reports of the officers were made with great frequency, and were used in debate. They served to give apparent substantiation to reports of similar conditions from other sources. Their use in debate may be illustrated with examples.

"Mr. Donnelly. I will give ... an argument, most potent and convincing, as to the kind of 'peace and quiet' which now reign in the South without negro suffrage, and which will remain there so long as negro suffrage is denied. General Ord has just made a report upon the condition of things in Arkansas. He sums up matters as follows:

'Outrages, assaults and murders committed on the persons of freed men and women are being continually reported from all sections of the state, and a decided want of disposition to punish offenders apparently exists with the local civil officers, and in the minds of the people. There have been reported fifty-two murders of freed persons by white men in this state in the past three or four months, and no reports have been received that the murderers have been imprisoned or punished. In some parts of the state, particularly in the south west and south east, freedmen's lives are threatened if they report their wrongs to the agent of the bureau, and in many cases the parties making the reports are missed and never heard of afterward. It is believed that the number of murders reported is not half the number committed during the time mentioned."
I will quote from the report of the officers at the Freedmen's Bureau, as to the state of affairs in Tennessee.

Captain Kendrick reports in substance that having proceeded to Union City he conversed with many of the citizens, who told him that but few of the freedmen were left about there, as they were driving them away as rapidly as possible. The citizens force them to fly by shooting, beating, whipping, and cheating them. The superintendent of the bureau there, investigating a case of assault upon a negro, was compelled to desist by threats upon his life. A freedman named Callum was whipped by a man named Stanley for saying that he had fought in the Union army. A Mr. Roscol, county trustee, has been persistently persecuted by a gang of desperadoes because he was prominent in defending the Union, and has been shot at several times while sitting in his house. About a dozen bullet holes may be seen in his door.

Another report which was of great value to the Radicals was that made by the committee which investigated the riot at New Orleans. On July 30, 1866, a serious riot broke out at New Orleans, between the State and municipal authorities on the one hand, and loyalists on the other. The situation was very much complicated by the condition existing throughout the State. Since November, 1865, a number of the State offices had been claimed by two sets of officials, each professing authority. Johnson's reconstructed government was headed by Governor Wells. Democrats composed the State legislature, and controlled the city government of New Orleans.

The old State Convention of 1864 had been out of existence for a long time, but a meeting was called for July 30, 1866. Members of the Republican party, (carpetbaggers, scallawags and negroes,) claimed that Wells called the meeting. Wells denied it,
and said that the president of the convention called it. At any rate, the assembling of the convention was opposed by the State legislature, and by the mayor of New Orleans, James Monroe. On July 25 Monroe applied to General Baird, who was in command of the military forces near New Orleans, to know if he could be allowed to disperse the assembly by arresting its members. Baird replied that he could not, but that if there should be any riot the military would assist the city police in keeping the peace.

On the twenty-eighth there was a Radical Republican mass meeting, largely attended by negroes, at which "violent and incendiary speeches were made, and the negroes called upon to arm themselves." After this meeting the Lieutenant Governor and the Attorney General of the State telegraphed to Johnson. They wished to arrest the convention members under process of the criminal court, and asked "Is the military to interfere to prevent process of court?" Johnson, not understanding the situation, replied "The military will be expected to sustain and not to obstruct or interfere with the proceedings of the courts." This telegram was later used by the Radicals in an attempt to show that Johnson was using the military forces to suppress the convention. On that same day General Baird wired Stanton. "A convention has been called with the sanction of Governor Wells, to meet here on Monday. The Lieutenant Governor, and city authorities, think it unlawful, and propose to break it up by arresting the delegates. I have given no orders on the subject. . . . Please instruct me at once by telegraph." Stanton did not answer. He later admitted that he had deliberately withheld the telegram from the President. Had Johnson known of it his instructions to Baird, and his reply to
The Lieutenant Governor would have been effective to prevent the riot.14

The convention was to meet Monday noon. Monroe had given General Baird the impression that the convention was not to convene until six o'clock. About ten o'clock in the morning, Lieutenant Governor Voorhies asked for troupes, and Baird sent for them, giving instructions that they were to arrive about five o'clock, an hour before he supposed they would be needed. In the morning also, Mayor Monroe enlarged and concentrated his police force, and gave the men arms. The convention met at noon, but a quorum was not present, and the meeting adjourned, intending to meet again a little later. During the intermission a procession of negroes paraded through the streets, and returned to the Mechanics Institute where the meetings were held. Just before they reached the Institute they came into conflict with a mob of whites, who fired upon them. The police arrived at once, advancing in concert from three directions, and joined the mob in firing. The negroes fled into the hall, where the meeting was in progress. The doors were barricaded, but were broken in, and a most shocking massacre occurred. Forty-eight persons were killed, most of them negroes, and more than two-hundred were injured.15 By the time the troupes arrived the massacre was over, but Baird proclaimed martial law, "because the police are regarded by a large portion of the community as the rioters, and were feared."16

Of course, the riot caused much horror throughout the nation. Sheridan, Baird's superior, wrote to Grant, "The more information I obtain of the affair of the thirtieth in this city, the more revolting it becomes. It was no riot: it was an absolute massacre
by the police, which was not excelled in murderous cruelty by that of Fort Pillow. It was a murder which the mayor and police of this city perpetrated without the shadow of a necessity; furthermore, I believe it was premeditated, and every indication points to this."¹⁷

On August 1, General Baird appointed a military board to investigate the riots. The next day the board began taking testimony, and continued until late in the month. The next Congress appointed an investigating committee, which used the testimony already gathered, and examined the documents of the President, and of Stanton. The conclusion was "that the whole drift and current of the evidence tends irresistibly to the conclusion that there was . . . a preconcerted plan and purpose of attack upon this convention, provided any possible pretext could be found."¹⁸

Johnson's telegram to the Democratic Lieutenant Governor saying that the "military will be expected to sustain and not to obstruct or interfere with the proceedings of the courts," was very unfortunate. The Radicals easily convinced people in the North that Johnson sympathized with the Democrats, that he opposed the meeting of Republicans, that he hated the negro and was supporting the rebels. The logical next step was to insinuate that he was aware of the preconceived plan to prevent the meeting, and had attempted to use the military forces to support the Democrats and rebels in their plan to break it up.

President Johnson believed that the Radicals in Washington had been responsible for the riot. In the fall of 1866, when he made his famous "Swing Around the Circle" tour, he spoke at St. Louis. An interruption, "How about New Orleans?" brought the answer, "If
you will take up the riot at New Orleans and trace it back to its source, you will find out who was responsible for the blood that was shed there. You will find that the riot at New Orleans was substantially planned in the Radical Congress. . . . You will find that another rebellion was commenced having its origin in the Radical Congress." Welles wrote "There is little doubt that the New Orleans riots had their origin with the Radical majority of Congress in Washington. It is a part of a deliberate conspiracy, and was to be the commencement of a series of bloody affrays through the States lately in rebellion. . . . Stanton is evidently in deep sympathy and concert with the Radicals in this matter. . . . (He is) himself complicated with, if not a prime mover in, the New Orleans difficulties, and these mischievous rumors." 

Some extracts from the testimony will serve to show, both the nature of the riot, and the usefulness to the Radicals of such materials. From the testimony of F. Mollere, a member of the convention.

(He describes the assembling of the convention, and the siege of the hall.) "The door was burst again, the third time, by the police, and Mr. Horton stood in the middle of the hall with a white handkerchief and said 'Do not shoot; we surrender.' They fired, and Mr. Horton was shot in the arm. . . . Some of the men jumped out of the window, and the moment they got down there I saw the policemen fire and shoot at them. . . . I could see the colored men rushing to (the police) for protection. Then they would hold them and shoot them." (He tells how he left the hall with another man, and went down stairs, where they met a clerk.) "I said, 'For God's sake do not touch me; protect me.' He said, 'Come down stairs with me.' As I got to the foot of the steps a regular file of police fired at me, and said, 'Kill him, the God damned Yankee.' I owe my life to one of the sergeants of police. The crowd was crying out as I got to the corner, 'Kill him, the damned Yankee -------' Clark saved my life there by saying I was a rebel. I saw a poor old colored man on the sidewalk, and I saw three men rushing behind him with their pistols in their hands. They were citizens, not police. As they got up to this colored
man one said 'Here is one of them,' and put his pistol to
his head; and the colored man turned around laughing, and
said 'What is the matter?' As he said that I saw his brains
blown out.'

From the testimony of G. B. Gourdeau, a spectator.

(He describes the killing of a negro watermelon vender.)
I suppose it was for their amusement, nothing else. They
have threatened the lives of the witnesses who testify as
to the killing. Threats have been made to Union men that
if they give testimony to this commission they would have
violence done to them. I have been told that it would be
dangerous for me to give evidence before this court. Loyal
men are being disarmed by the police, while others are still
permitted to carry their weapons.

Here was evidence exactly suited to the Radical's plans for
propaganda. The United States flag had been fired upon. The old
spirit of the Confederacy was still alive, and even the old Con-
 federate organizations were ready for instant mobilization.
Treason was open and unashamed, Confederate uniforms were paraded,
the old rebel military units were still in organized existence.
Johnson's government was not able to deal with the situation.
Johnson's officers, if not Johnson himself, were Confederate
sympathizers. United States military forces in the South were
necessary, and the President had been found using them to the
interests of the rebels, and to the great hurt of loyal men. A
number of persons were threatened for giving evidence before the
committee. The whole Southern attitude was described as one of
fiendish cruelty. The President was reported to have garbled
the accounts of the riot, and to have permitted the New York
Times to publish expurgated notices of it. He was said to have
been "reluctant" to give up the correspondence relative to it.

With the skillful Radical stress on these things, what
wonder is it that most of the country agreed that the report was
"a most convincing refutation of the foolish assertion... that the President's Southern policy is just to all, as well as forgiving and conciliatory to the South."
REFERENCES


2) Schurz, Carl, Reminiscences, III, 157-201. The following facts of the trip are taken from these pages.

3) Ibid.

4) Beale, op. cit., 73.

5) Ibid., 157; Globe, 39 Cong., 2 sess., 1076.

6) Beale, op. cit., 158.

7) Globe, 560.

8) Ibid.


10) Monroe to Baird. Ibid., 7.

11) Ibid., 4.

12) Voorhies and Herron to Johnson. Ibid., 4; Johnson to Voorhies. 4.

13) Baird to Stanton. Ibid., 4.

14) Beale, op. cit., 350 et seq.


16) Baird to Stanton. Ibid., 6.

17) Sheridan to Grant. Ibid., 11.

18) Ibid., 42.


20) Welles, Gideon, Diary, II, 570.

21) House Executive Documents, op. cit., 118.

22) Ibid., 121.

23) "The President and the New Orleans Massacre." Living Age, XCI, 121 (October, 1866)

24) Ibid.
CHAPTER V

THE REPORT OF THE JOINT COMMITTEE OF FIFTEEN

ON RECONSTRUCTION
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THE REPORT OF THE JOINT COMMITTEE OF FIFTEEN ON RECONSTRUCTION

Perhaps the most important single piece of propaganda which the Radicals had at their command was the report of the Joint Committee, made after an exhaustive investigation into the condition of the South. At the meeting of the Joint Committee on January 12, 1866, Bingham moved "that sub-committees ... be appointed to examine and report upon the present condition of the States composing the late so-called Confederate States of America."¹ This was agreed to, and at the next meeting Fessenden appointed the four sub-committees.

No. I. Tennessee.
Grimes, Conservative.
Bingham, Conservative.
Grider, Democrat.

No. II. Virginia, North Carolina, South Carolina.
Howard, Radical.
Conkling, Radical.
Blow, Conservative.

No. III. Georgia, Alabama, Mississippi, Arkansas.
Harriss, Radical.
Boutwell, Radical.
Morrill, Radical.

No. IV. Louisiana, Florida, Texas.
Williams, Radical.
Washburn, Radical.
Rogers, Democrat.²

The choice of members for these sub-committees is proof of Fessenden's Radical sympathy. As has been shown in an earlier chapter, the work of the sub-committee on Tennessee was already fairly well mapped out by public opinion in Congress. The Radicals seemed to consider that Tennessee was the safest place to concentrate the Conservatives; at least that was the only sub-committee
which did not have a Radical majority. It was so safe that not a single Radical was wasted there. The second and fourth sub-committees were each given Radical majorities, and the third was composed entirely of Radicals. It might be objected that, when nine members out of the group of fifteen were Radicals, Fessenden could not help giving some Radical majorities. True, but his choice of members discounts that argument. The most influential of the Radical opponents, Reverdy Johnson, was not given a place on any committee. The Tennessee group was packed entirely with Conservatives and Democrats, to get them out of the way. Since the Tennessee question had practically been settled outside of the Committee, a Radical sub-committee there would not have made any difference. Fessenden could have given Conservative majorities to each of the three important sub-committees.

The sub-committees began at once to take testimony and collect evidence, and continued work until the end of April. Witnesses were all examined in Washington, and this exercised a natural selective influence over the character of the people available. Added to this was a deliberate effort on the part of the Radicals to pack the number with persons of Radical sympathy. This accounts to a great extent for the extreme tone of the "findings."

Army officers who had returned from the South, officers of the Freedmen's Bureau, southern loyalists, and carpet-bagger officers of the southern states comprise far the greatest number of witnesses, but there was a sprinkling of Southerners, to give an appearance of impartiality. These Southerners were of two kinds; a few were eminently respectable and prominent persons, such as Robert E. Lee, whose testimony was sane and reasonable;
some were southern hot-heads, whose testimony did more harm than
good, and was pointed to with scorn and horror by the Radicals, as
ominous types of what the South was thinking. One hundred forty-
four witnesses were called, altogether. Seventy-seven of these
were Northerners living in the South, most of them for periods
less than two years; thirty-eight were northern army officers;
fifteen were officers of the Freedmen's Bureau; ten were federal
customs collectors; and sixteen were white southern sympathizers.
Of the Northerners living in the South, some were simply persons
making extended travels.

In March, 1866, the majority report, and the verbatim ac­
counts of the witnesses was published, and 150,000 copies were
printed and distributed by the members of Congress. The
minority report, signed by Johnson, Grider, and Rogers, was
omitted from the publication, and received scant consideration
except in the Conservative newspapers.

The work of the sub-committee on Tennessee has already been
considered. It was much more thorough than that of any of the
other sub-committees. The questions were more spontaneous, and
show less desire to draw the witnesses along a ready-marked line.

The second sub-committee, examining Virginia, North and
South Carolina, called seventy-one carefully chosen witnesses,
including several negro ex-slaves. After much judicious question­
ing this group was able to produce evidence which showed the
following. Southerners have no respect for the United States,
and the whole South is a "nursery of treason." Southerners have
organized into conspiracies, or "general understandings," which
hope to accomplish the dissolution of the Union by legislative
means, as soon as representatives are admitted to Congress. The State legislature of Virginia has a rebel majority. Rebels vote without the "slightest restrictions." They pay taxes with great reluctance. They would probably support enemies of the United States in the event of a foreign war, and would revive the Confederacy under such favorable conditions. They would repudiate the Federal debt. The pardons granted by Johnson have had a mischievous effect in fostering disloyalty, which is constantly increasing. The condition of the freedmen is "deplorable," and the Freedmen's Bureau is a necessity. Negro franchise is much opposed, although negroes are intelligent, and very anxious for education. Negroes are frequently whipped, strung up by the thumbs, or otherwise mistreated. The courts would not convict rebels in cases concerning treason, or murder if the case involved a negro or a Northerner. Northerners have "no chance at all" in State courts. Opposition to Northerners is very strong, and is fostered by the women and the press.5

Testimony taken by the third sub-committee, concerning Georgia, Alabama, Mississippi and Arkansas, stressed much the same things. The President's policy of leniency has resulted in a change of attitude in the South. Southerners have been "spoiled like children," and the anti-Union sentiment is growing more bitter. The women and the press are responsible for some of the continued hostility. Organized militia and secret societies exist, whose object is to destroy the Union. The South would gladly repudiate the Federal war debt, and will make claims for war losses and for freed slaves. Freedmen are "persecuted," with cruelty and oppression common. The Freedmen's Bureau is necessary
Evidence brought out by the fourth sub-committee, on Louisiana, Florida and Texas, is similar also. Disloyalty is increasing. The pardon system has been unsatisfactory, and voters, and even State officials are frequently unpardoned rebels. According to Governor Marvin of Florida, half of the delegates to the State legislature were active secessionists, and a quarter more were Southern sympathizers. Except for the support of the militia, "the most rabid and violent secessionists" would be in power. The Freedmen's Bureau is necessary to prevent mistreatment of the negro, and the troops are necessary to help the loyalists.

The sub-committees had a list of stock questions which were asked almost all the witnesses. If there was a southern sympathizer giving testimony, the questions were briefer, and many were omitted. They did not ask such men as Robert E. Lee, or Governor Johnson of Georgia, how they and their friends felt toward the freedmen. They did not want such answers to appear on the records. The questions were often leading, and if the witness did not answer as was expected or desired, they attempted to trap him into admitting some minor point, over which they made much. If a witness admitted that he knew of just one case where a negro was mistreated, the Radicals were jubilant, and claimed that his testimony showed that the Freedmen's Bureau was necessary to protect the negro.

With the more ignorant of their witnesses, they often stated the position, and then asked if it was not so? For instance the following, asked with the intent to trap a Southerner into a
false position.

**Question:** I understand it to be your opinion that generosity or liberality toward the South would be the surest means of regaining their good opinion?

**Answer:** Yes. 8

Some typical quotations from the testimony will serve to show the sort of questions asked, and the kind of answers which were desired.

From the testimony of John W. Recks, Customs Collector in Florida.

"**Question.** Then all the officers of the government there, and those chosen to represent that state in Congress, as I understand, were chosen by men who were chosen during the War?

**Answer.** Yes sir.

**Question.** And those who were not pardoned, as well as those who were, voted for their election?" (Recks had not previously mentioned the voters, or their qualifications. This was obviously a leading question.)

"**Answer.** Yes sir; and whether they had been there three days or had lived there three years did not matter. They would come back, according to the instructions given by Provisional Governor Marvin, would vote the next day, pardoned or unpardoned."

From the testimony of J. P. Stiles.

"If these State governments are permitted to reconstruct, and to go on in the manner they are going on, the South will remain a nursery of treason. The rebels say 'we know that we are whipped; we are overpowered; but we hate you, and we will teach our children's children to hate you!' Their favorite expression is, 'Every dog has his day, and the time will come, sometime or other, when an opportunity will present itself to us.'

**Question.** Is that feeling very general?

**Answer.** Yes sir.

**Question.** What chance does a Union or a Northern man stand in their courts.
Answer. No chance at all. . . . The popular feeling is against him altogether, and he has it all to butt against. . . . There is no show for justice to a Union man in any case that affects rebels.

Question. What chance does a freedman stand for justice at their hands?

Answer. As a general thing, he does not stand any chance for justice at all.9

From the testimony of Rev. L. M. Hobbs, of the Freedmen’s Bureau Educational Service.

"Question. What do you find to be the present temper and spirit of the people in Florida in reference to the general government?

Answer. It is bitter; much more so now than it was three or four months ago.

Question. How do you explain this change that has taken place in their feelings, or in the expression of them?

Answer. I consider it is because of the lenience manifested by the present administration; first in extending the privilege of amnesty, and second, in re-establishing the civil government, throwing the affairs of the state, the administration of the law, in the hands of probate and circuit judges, leaving the military to have control only in some cases where capital punishment, or some punishment of that kind, can be inflicted. Also the general opposition that has grown up within the last three months to the negro having civil rights, the right of suffrage, etc.10

In the published report there was an index which listed the questions asked most frequently. Under each question was a list of the witnesses who had made negative answers, and a similar list of those who had made affirmative answers. This index enabled one to see at once how the majority of witnesses stood on any question. On every question the majority was with the Radicals. This was misleading, because of the picked nature of the group of witnesses. In addition, the index was not compiled with strict
honesty. For instance, the question was frequently asked, "Have you seen, or do you know of, indications of hostility toward the Union?" David Patterson, the President's son-in-law, was listed as answering in the affirmative. That question was not asked Patterson directly, and the only reference which could, by any stretch of the imagination, bear on the subject is this. "During the war ... (Union men) were persecuted." He said nothing else on the subject of hostility. On that same question there were two others listed as making affirmative answers who did not.

One of them, Governor Johnson of Georgia, was very decidedly negative in his testimony. In a number of cases the index was falsified in a similar manner.

The following tabulation shows the questions asked most frequently, with the number of negative and affirmative answers, and the number of such answers found by the various committees. "Part I," "Part II," etc., refer to the testimony taken by the first sub-committee, to that of the second sub-committee, etc.

Have you seen, or do you know of, indications of hostility toward the Union?

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32 of the affirmative answers, and 11 of the negative answers, were given by army officers. The index lists 92 affirmatives.
Has hostility to the United States increased since the surrender of Lee?

Affirmative. 21

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Negative answers were given by General G. H. Thomas, and Governor Johnson of Georgia. The index omits Johnson's testimony.

Do the Southerners still hold to their states rights and secession theory? Would they be willing to fight against the United States in support of their theories?

Affirmative. 50

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Negative. 14

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13 army officers answered in the affirmative.

What effect has the Executive leniency and free granting of pardons had on the South?

Beneficial. 3

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Harmful. 42

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The index omits the testimony of R. E. Lee, and gives only 2 who considered the effect beneficial. 6 army men thought that the effect was harmful.

Do Southern politicians hope to control the Union policy by political means, as soon as they are elected to Congress?

Affirmative. 20

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Negative. --
Southerners were not asked this question.

Is the South reluctant to pay taxes for the National debt?

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The one negative answer was given by General Lorenzo Thomas. The question was not asked any of the Southerners.

Will the South expect compensation for slaves emancipated, and property destroyed during the war?

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Generals Spencer, Thomas and Grierson answered affirmatively. Southerners were not asked this question.

Have you seen any manifestations of hostility toward Union men, whether of the North or South?

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27 army men answered affirmatively, and 5 negatively. R. E. Lee was listed with the affirmatives. He had said that he had known of cases where Southern people would "avoid" Northerners.

Is the Freedman treated with hostility or cruelty?

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Will the negro work for a fair wage and good treatment?

Affirmative. 59
Negative. 4

Are the United States troops and the Freedmen's Bureau necessary in the South?

Affirmative. 73
Negative. 10

37 military men answered in the affirmative. Only 3, among them General Lorenzo Thomas, answered in the negative.

The majority report appeared with the testimony. It had been drawn up by Fessenden, and was signed by every Republican member of the Committee. It was very cleverly and subtly worded, and made to stress the points which the Radicals were especially anxious to bring out. The following is a much shortened summary of the report, and uses the original language wherever possible.

When Congress opened in 1865, the President's Message stated, in general terms, what had been done in the South, but the details were not communicated
to Congress. It was apparent that it was not proper to confide in the judgment of one man, no matter how exalted his station, when the question involved the welfare of the Republic in all future time. Congress felt incompetent to proceed without securing further information, and hence this testimony was taken.

Southerners claim that, if they had no legal right to secede, then they never left the Union, and still have their full rights. The committee finds this position untenable, as it would make civil war a pastime at which any state may play. It is not important whether the South is in or out of the Union. All must agree that she failed to perform her obligations to the Union, and so cannot expect to enjoy its rights and privileges.

Let us look at the facts shown by the evidence taken by the committee. Hardly is the war closed before the people of these insurrectionary states come forward, professing no repentance, glorying in the crime they have committed, avowing still, as the uncontradicted testimony of Mr. Stephens and many others proves, an adherence to the pernicious doctrine of secession, and insist upon their rights as States, and proclaim that they will submit to no conditions whatever as preliminary to their resumption of power under that Constitution which they still claim the right to repudiate.

The Southern press abounds with abuse of the institutions and people of the Loyal states. The national airs are scoffed at, and the national banner is
openly insulted at public meetings. Witnesses of the highest character, and having the best means of observations, show that the Freedmen's Bureau is almost universally opposed by the mass of the population, and could not exist efficiently without military protection. Without the protection of the troops, loyal men would be obliged to abandon their homes. Vindictive and malicious hatred is felt toward the freedmen. Prejudice against color is assiduously cultivated by the public journals, and leads to acts of cruelty, oppression and murder, which the local authorities are at no pains to prevent or punish. The people of the rebellious states pay their United States taxes with great reluctance, and would repudiate the national debt if they could do so.

Generally prevailing opinion in the South defends the legal right of secession. While the South appears willing to submit, it is clear that the real motive is a desire to obtain the advantages which will be derived from a representation in Congress. The effect of our lenience has been to change the abject submission of the people to an insulting denial of our authority.

There are two points of action open. The North might waive formalities and admit the Confederate States at once, trusting to time and experience to set all things right; but this seems unreasonable to the committee. The committee offers the following for consideration:

1. The Southern States were, at the close of the war,
with no State constitutions or other forms which could form the basis for legal relations between them and the United States.

2. Congress can not be expected to recognize their representatives.

3. Congress would not be justified in admitting such communities without proper guarantees securing the civil rights of all citizens.¹²

This report proved very valuable to the Radicals. It was much used in the election campaigning in 1866, and served to justify the Radicals to their constituencies. In Congress too, it was made to serve its purpose, and had a good deal to do with the conversion of some of the waverers. The evidence of verbatim testimony, reiterated again and again, seemed to prove only too clearly that the South needed Congressional attention, and that Johnson's reconstruction had been a failure.

By all these ways then, the Radicals strove to build up public opinion. That they were deceiving the public they did not care, so long as the public was convinced. And their success was great. By means of their propaganda they built up their party from a small group of politicians and fanatics to a great organization which controlled the policies of the government, and embraced most of the people of the North. With their propaganda they built up a background which carried their policies through Congress, even though their measures were patently unjust and unconstitutional.
Their program was put through Congress without the aid of any great debate on their part. They had simply to point to this elaborate fabrication of lies which they had built up, and appeal for support.
REFERENCES

1) Journal, 47.
2) Ibid., 48.
3) Globe, 39 Cong., 1 sess., 3325, et seq.
4) See supra, 11-14.
5) House Executive Documents, 39 Cong., 1 sess., No. 30, Part II.
6) Ibid., Part III.
7) Ibid., Part IV.
8) Ibid., Part II, 132.
9) Ibid., Part II, 32.
10) Ibid., Part IV, 8.
12) Ibid., xvii et seq.
CHAPTER VI

THE RECONSTRUCTION ACT OF MARCH 2, 1867
CHAPTER VI.

THE RECONSTRUCTION ACT OF 1867.

By the time the second session of the Thirty-ninth Congress met in December, 1866, it had become evident that most of the southern states would refuse the Fourteenth Amendment. The Radicals were willing that they should. They had shown, by their action on the Restoration Bill, that they did not really desire that the amendment should become the basis of reconstruction. Now they had an excuse for abandoning it as such. They stressed over and over how the South had "flung the Amendment in their teeth." It was a satisfying excuse, apparently putting the South at fault for the failure.

The first week of the session brought forth a number of plans for a new Congressional reconstruction. Only two of these were important. The second day of the session Broomall introduced in the House a resolution that the Committee on Territories be instructed "to inquire into the expediency of reporting a bill providing territorial governments for the several districts of country within the jurisdiction occupied by the once existing states of Virginia, North Carolina, South Carolina, Georgia, Florida, Mississippi, Alabama, Arkansas, and Texas, and giving to all adult male inhabitants, ... not participants of the late rebellion, full and equal political rights in such territorial governments." This was passed by a strict party vote, 107 yeas, 37 nays, and 47 not voting. On December 6, Sumner introduced a resolution "declaring the true principles of reconstruction, the jurisdiction of Congress over the whole subject, the illegality of existing
governments in the rebel states, and the exclusion of such states with illegal governments from representation in Congress, and from voting on Constitutional amendments."

On December 10, a resolution was proposed providing that the southern states would be admitted to the Union if they accepted the amendment. This was referred to the Joint Committee, without debate, which constituted a practical failure. Those resolutions in which Congress was interested, and over which there was division of opinion, were hotly debated before being referred. That this was referred without debate shows the changing attitude of the new Congress.

On December 13, Stevens introduced a bill providing for civil government in North Carolina. Since no civil government existed there, he said, it was the duty of Congress to establish one. His bill provided for calling a convention, which should frame a state constitution, and submit it to Congress. All male citizens, 21 years of age or over, who could read or write, or whom might own in fee real estate to the assessed value of $100 or more, might vote for the members of this Convention. No one who had had the right to vote before was to be disqualified, but in order to eliminate southern members from the Convention, it was provided that the delegates must take a very strict oath. The bill also provided for indictment for perjury, if the oath was taken falsely, and no person could serve on the jury at a trial on such a charge, until he had himself taken the oath. With this bill Stevens was feeling his way, and testing the temper of Congress.

Within a week Stevens had offered a new and elaborate plan of reconstruction. This he called a substitute for the Restoration
bill of the preceding session, hoping thereby to prevent its being referred back to the Joint Committee. The bill provided that, while the Johnson governments were illegal, they would be recognized as valid for municipal purposes, until they could be altered in accordance with this bill. A convention was to be called, to draw up a new state constitution, which must be impartial, without regard to language, race, or former condition. The voters, and the members of the convention, were to be male citizens, 21 years of age, or over. Certain classes of former rebels were disqualified. The state constitution was to be submitted to Congress, and if it was satisfactory, senators and representatives would be received, and the state admitted to the Union. Amendments to the bill which were accepted after debate suspended the writ of habeas corpus, and placed the states under martial law. After much debate, Bingham moved that the bill be recommitted to the Joint Committee. Stevens opposed this strenuously, but he was defeated, and the motion carried, 88 yeas, 65 nays, and 38 not voting. The committee spent two days in discussion of the bill, but the members were none of them very favorable to it. All of Stevens' efforts to bring the issue to a vote were evaded, and he was again defeated.

In the meantime, George W. Julian, of Indiana, had offered to the House a solution for the problem. He believed that Congress was not yet ready to make an adequate plan of reconstruction, more time was needed to work out details in a satisfactory manner. The best way would be to protect the southern loyalists, black and white, by establishing military governments in the South. Then Congress could take time to provide for the details necessary to
Taking the cue from Julian, Senator Williams, of Oregon, on February 4, 1867, introduced a bill providing for the establishment of military governments. This bill was discussed in the Joint Committee on February 6, and became the basis for the Reconstruction Act of March 2, 1867.

The Committee incorporated some changes in the bill, all but one unimportant. The Williams Bill had provided for a military commander for each state; the committee divided the whole South into five military districts. Conkling was responsible for the changes made, Bingham and Reverdy Johnson stood almost alone in opposition. Bingham proposed six different amendments, all of which were refused by every member but Johnson. This was the last meeting of the Joint Committee at which business was transacted.

The bill, as reported, may be summarized briefly.

1. The South was divided into five military districts: Virginia was to constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama and Florida the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

2. The General of the Army was to assign an officer to the command of each district, and provide for a sufficient military force.

3. Civil tribunals might be used, but military judgment was permitted, exercised through military commissioners. Military trials were to be held when the commanding officer judged them necessary. The acts of commissioners must be approved by the commanding officer, in cases involving life or death.

4. No writs of habeas corpus might be issued against proceedings or judgments of the commissioners.
Stevens presented the bill to the House on February 6, 1867.  
He was very anxious to have it passed at once, as "any unnecessary delay must be fatal to the bill." He thought that one day would be plenty of time, and endeavored to block all demands for more time, for debate and study. He pointed out that there were only fifteen days of the session left. "We are not at liberty to indulge our friends on the other side by adjourning the action of the bill. . . . Tomorrow, God willing, I will demand the vote."

Nevertheless, he was not able to get the vote on that day. Debate continued for a week, during which time there were many amendments proposed. Only one of these is important, that offered by Blaine, on February 12. It added the provision that, if the Fourteenth Amendment should be accepted by three-fourths of the states then in the Union, it should be considered adopted. Southern states might then be admitted as soon as they accepted the amendment.

Naturally enough, the extreme Radicals opposed the Blaine amendment. Some eighty-five of the more conservative Republicans supported it. The stupidity of the Democrats killed it. They thought that if they prevented any amendments, the whole bill would fail, and so they aligned themselves with the Radicals, in opposition to the conservative Republicans. In a preliminary division on a motion to recommit, the vote stood 85 Republicans to 78 Radicals and Democrats. There were enough conservative Republicans to defeat the Radical-Democrat combination, and it appeared that the Blaine amendment would be adopted.

Stevens saved the day for the Radicals, by making a very powerful speech, which "may be placed as one of the few ever delivered in Congress that have resulted in the changing of
The speech was simply an appeal of the usual Radical sort, but it had such far reaching effects that a brief summary of it is not out of place. Stevens began by deploring the fact that Congress had been sitting idle while the South had been bleeding at every pore. He regretted that nothing had been done before, but felt that the delay was not the fault of the Joint Committee, nor of himself. He had previously offered a bill which had been defiantly refused. This bill had been received in the same spirit. Gentlemen objected to its particles and its articles, but did not make fundamental objections. They tried to amend it in such a way as to pledge future Congresses to admit the South on the basis of the Fourteenth Amendment. This was simply a proposed step toward universal amnesty and universal Andy-Johnsonism. He appealed for action. The deeds of this burning crisis would cast their shadows far into the future, and the members of the Thirty-ninth Congress would appear upon the bright pages of history just in so far as they gave their aid to promote the great cause of humanity and universal liberty. Some gentlemen objected to the bill, favoring Athenian or Galilean forgiveness and mercy. Yet those doctrines apply only to private offenses, and not to political crimes. Those who palliate the conduct of rebel traitors, whose hands are red and whose garments are dripping with the blood of their murdered kinsmen, are covering themselves with indelible stains, which all the waters of the Nile can not wash out.

As a direct result of this speech, sixteen conservative Republicans changed their votes. On the final vote to recommit, the division was 69 yeas, (conservative Republicans) to 94 nays, (Radicals, Democrats and the sixteen conservatives.)
The bill passed the house, without amendment, by a vote of 109 to 55. Stevens' comment, when the vote was announced, was "Heaven rules as yet, and there are Gods above."

The bill was introduced into the Senate on February 13, by Williams, who announced that he intended to add the amendment offered in the House by Blaine. But the next day he withdrew his offer, after having "consulted with persons who know and advise me... I deem it my duty under the circumstances, to oppose all amendments to this bill." But a number of the Senators would not accept the bill without the amendment. Two days of debate led to a party caucus, on February 16, which reported very late that night, with a substitute bill, which combined the Reconstruction bill and the Blaine amendment, with one change in each. The President, instead of the general of the army, was to appoint the military commanders in the districts, and the Southern states must modify their constitutions to provide for universal suffrage. After an all night session, the Sherman substitute passed in the morning of the eighteenth, by a vote of 29 to 10.

Two days later the Sherman substitute was refused by the House, when the Democrats again voted with the Radicals. But the Senate refused to abandon the substitute, and the House decided to accept it with two additional provisions. No person who would have been excluded from holding office by the provisions of the Fourteenth Amendment, could serve as a member of a state Constitutional convention, nor vote for its members. Until the southern states should be admitted to Congress, their governments were to be considered as provisional only. The Senate accepted the House provisions by a vote of 35 to 7.
The bill was sent to President Johnson, who returned it with a veto on March 2. It passed over the veto, the same day, in both the Senate and the House, and in both chambers the majority supporting the bill against the President's veto was larger than the majority passing the bill at first. However, it must not be supposed that this increase was due entirely to opposition to President Johnson. A number of Democrats and the more conservative Republicans, led by Reverdy Johnson, voted to override the veto, in order to get this bill passed during the Thirty-ninth Congress. It was known that the Fortieth Congress would be much more Radical than the Thirty-ninth, and these men wished to accept this bill, to prevent the next Congress from passing one even more objectionable.

An outline summary of the progress of the bill follows.

THE RECONSTRUCTION ACT. 1867.

February 12. Blaine Amendment proposed.

Senate. February 13. Bill introduced by Williams.
February 16. Republican caucus agreed on Sherman Substitute.
February 17. Sherman Substitute accepted. 29 yeas, 10 nays.


Senate. February 19. Sherman Substitute insisted upon.

Senate. February 20. House provisions accepted. 35 yeas, 7 nays.

Presidential veto. March 2.

House. March 2. Passed over veto. 135 yeas, 48 nays.
Senate. March 2. Passed over veto. 38 yeas, 10 nays.

Debate on the Bill.

Arguments of the Radicals, with the Conservative Rebuttal.

Radical Constructive Argument. The South is conquered territory. She resorted to arms, and was not victorious.

Conservative Rebuttal. The last war was not one of conquest, but was fought to enforce law and preserve the Union. There was no subjugation about it.23

Radical Constructive Argument. The harsh provisions of the bill are justified by the laws of nations relating to conquered provinces. According to the law of nations, a conquered state is subject to the wishes and dictates of her conqueror. It is clearly the right of the victorious government to decide what to do with the South, and Congress is justified in holding the vanquished belligerent in the grasp of war until all the issues involved in the war have been secured.
Conservative Rebuttal. When two nations fight, there may be conquest of new territory. But here the North did not gain anything that had not already been held. She did not conquer a single inch of territory. It would be impossible for the Federal government to conquer her own territory.²⁴

Radical Constructive Argument. The army must precede civil government in the South, to pave the way, and protect the civil authority. The South must be kept in check with the bayonet and the sword until civil government can be safely established.

Conservative Rebuttal. The army should precede civil government only when there is some obstacle to civil government which is not to be overcome by any other means. There is no such obstacle in the South at the present time. The only proper function of the military in the South is to enforce the laws and the will of the civil government. It is true that the South is in a state of more or less disorder. But when Kansas was in a similar condition no military regime was established there. Neither is it necessary now in the South.²⁵

Arguments of the Radicals, not Refuted by the Conservatives.

The President has no power to reconstruct the South. That belongs with Congress. Only Congress can express the will of the
people, and when the President tries to follow his plan he sets himself in opposition to the will of the people. The governments which the President has set up in the South are illegal, not only because the Executive has no legal right to establish them, but because they are not republican in form or purpose. There are no states in the South; there are only pretended states, the instruments of power in the hands of a usurper. These governments must be repudiated, and set aside.  

The Federal government has proved that it is impossible to reconstruct the South by co-operating with her people. Since they refuse to co-operate in rebuilding what they have destroyed, Congress must remove the rubbish and build from the bottom. They refused the Fourteenth Amendment as a basis of reconstruction, and flung it back in our teeth with contempt and scorn. We have made a generous and magnanimous offer. It was not accepted, and now it is our turn to act.

Throughout the whole region of the states reconstructed by the Executive the principles of the rebellion are as thoroughly in possession of the country as they have ever been. The rebellion is alive, and strong, and is manifested in defiance to the authority of the United States. The South is disorganized; it is despotic. Freedmen and loyalists are not safe in the possession of their property. Their lives are endangered. Cruelty and oppression are common. These are proven facts.
Congress must do its duty for the loyal people in the South. For two years persecution, exile, and murder have been the order of the day. These loyal men must be protected from the cruelties of anarchy, from persecutions by the malignant, and from vengeance visited upon them on our account. To discard them, now that the war is over, is a great evil, and one of the greatest crimes of the age.  

If Congress does not advance some plan of reconstruction, the rebel South will. Already the rebel leaders are dictating terms to the government. If we adopt no practical plan for reconstruction, we shall have to accept terms at their hands. We must not submit to enter into treaty as equals with those who brought on the war. 

The people of the North demand just such a plan of reconstruction. The people insist that this question be settled, and by their own representatives. At the last election, the people, having heard the stories of Southern refugees, told us that they demanded protection for them. We promised to give it, and were elected on that promise. Yet we have done nothing.
Arguments of the Conservatives, with the Radical Rebuttal.

Conservative Constructive Argument. The bill is unconstitutional, as it is a war measure passed in time of peace. The Constitution permits martial law only in cases of insurrection or invasion. There certainly is no invasion. Insurrection does not exist in the South, except in some isolated districts. This bill places the whole country under martial law.

Radical Rebuttal. The country is still, for all practical purposes, in a state of war. There are two states of war, flagrant, and cessante. The later condition is now upon the country. The bill is not unconstitutional, although it is a war measure. It is a new article of war, commanding the army to return to its work of putting down the rebellion. It begins where Grant left off, and holds those revolted communities in the grasp of war, until the rebellion shall have laid down its spirit, as it has already laid down its arms. Bayonet and sword are the only effective weapons we can send South, and the living spirit of the rebellion justifies us in the use of a war measure. 32

Conservative Constructive Argument. The bill is unconstitutional, as Congress is not justified in establishing a suspension of the writ of habeas corpus. The Constitution provides that the
writ can not be suspended except in case of invasion, that is, flagrant war. There now exists no such emergency as to make this action necessary.

**Radical Rebuttal.** The rebellion has been crushed by war, but it is still sufficiently strong to overthrow and defy the courts. If the courts were open everywhere for redress of violence, then we should not be justified in suspending the writ. But this is not the case. The bill assumes that the country is in a condition which makes such action necessary. The courts in the South are not really entitled to enjoy the privilege of the writ, anyway. Only legitimate and recognized governments have such a privilege.  

**Conservative Constructive Argument.** The bill is unconstitutional, as it takes the President's power as commander-in-chief of the army and navy. The President, and not the General of the Army, ought to have the power to appoint the commanders of each district. The President has supreme command of the army, and Congress can not, under the Constitution, assume to command it.

**Radical Rebuttal.** Congress does have the power to order and direct the army and navy. It has often been done by legislation. For instance, the Act of 1807, which ordered vessels to the coast survey, and the Act of 1832, which also detailed forces for the coast survey. The President is commander-in-chief of the
armies and navies of the United States, but the
armies and navies are made instruments of the govern-
ment for the execution of the law. It is the business
of the government to make laws, and the President must
execute them. Although the President is commander-in-
chief, Congress is his commander, and he must obey. 34

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Conservative Constructive Argument. The bill makes no pro-
vision for doing away with military rulers, and establishing civil
government. Such harsh bills are always called temporary, when
they are first promoted. And even if the next Congress wishes to
repeal the bill, a mere majority in one house, or an unfavorable
President, could prevent it. Besides, it is not safe to trust
any group of human beings with so much power, and then expect
them to surrender it. The bill itself must place its limit.

Radical Rebuttal. The measure is intended to be of
brief duration, and will, of course, be repealed when
the time comes. No one contemplates that this bill
will be a permanent measure. It is of a temporary
character, and is demanded by present exigencies.
When those are removed, this measure will be abro-
gated and abandoned. 35

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Conservative Constructive Argument. The bill is at war with
the principles of free government. One-third of our people and
states are arbitrarily put under military government. This bill inaugurates enough to destroy any government ever founded.

Radical Rebuttal. The bill is simply a police bill, which is necessary if the government is to be preserved. It has been made necessary by the wrong kind of reconstruction being promoted in the South. This bill is not a reconstruction bill at all. It is simply a police bill, which will protect the loyalists, and hold the South for the Union, until Congress can perfect suitable measures of reconstruction. 36

Arguments of the Conservatives, not Refuted by the Radicals.

The bill is unconstitutional, because it gives absolute power to a military ruler. The commanders in the five districts have complete, absolute, unrestricted power to administer the affairs of those states according to their own caprice and will. Such military despotism is at variance with the principles of our government. 37

The court system set up by the bill is not Constitutional. It denies the right to a speedy and public trial by an impartial jury, to be informed of the nature of the charge, to be confronted with witnesses, to have compulsory process for obtaining witnesses, to have the assistance of council. This bill simply
provides for a court martial. It is opposed to the unanimous decision of the Supreme Court, which judged, in the Milligan Case, that military courts do not have authority where civil courts are established, or over citizens not in the army or navy. 36

The bill extends too far, and is dangerous because of its great breadth. There are portions of the South where it is not needed at all. All parts of the South have some loyal persons, and this bill affects them with the same harshness and severity it affects the rebels. There should be some provision for flexibility. 39

The best interests of the country are being destroyed for party considerations, and for special and particular interests. Radical politicians do not want a complete and final reconstruction. They proposed the Fourteenth Amendment as a plan of reconstruction, but it was not really intended to be one. Many members of Congress are very anxious to prevent the Southern States from being reconstructed, because then their representatives will have to be admitted, and the present majority will lose its power. Their plan is to prevent their opponents from voting, and so carry their measures. 40
The Veto Message.

In his annual messages President Johnson had always discussed reconstruction, but he had approached the subject, not as a question to be debated, but as a problem on which he had taken action. He stated simply what had been done, and gave almost no clue as to what he thought of the plans of the Radicals. Of course, in his messages when he vetoed the Freedmen's Bureau Bill and the Civil Rights Bill, he gave some revelation of his stand on Radical reconstruction. But it is in his message of March 2, 1867, vetoing the Reconstruction Act, that he shows his position most clearly. He believed that conditions in the South were satisfactory, and charged the Radicals with forming their policy to promote party interests. 41

For the most part, his specific objections to the bill were those which had been already advanced in Congress. He felt that the bill violated the principles of American liberty, by placing all the people of ten states under absolute military domination. The only justification for such action must be that there was no protection for life or property, and this was not the case. The power of the commanding officers was that of absolute monarchs, and history has shown that it has never been safe to trust unrestrained authority to any class of men. The bill was not Constitutional. First; the Constitution does not sanction vassalage, even in extreme cases where it has been necessary to resort to armed force. Second; the Constitution forbids the exercise of judicial power except by the ordained and established courts, and it expressly provides for trial by jury. Third;
the United States is bound to provide each state with a republican form of government. Fourth; bills of attainder are expressly forbidden by the Constitution, yet here is a bill of attainder against nine million people. Fifth; the Federal government has no right to interfere with the provisions of any state concerning its franchise. He pointed out that if the Southern governments were illegal, then the Thirteenth Amendment was not a part of the Constitution, since it had been passed upon by the southern states. He believed that to pass this bill would seem to bear out the claim of Southerners that they had been fighting for their liberty. They would become heroes. Of course, the war had really been fought to preserve the Union, and not to prevent Southerners from gaining liberty. Congress had formally declared, in July, 1861, that the preservation of the Union was the object of the war. This bill would repudiate that declaration, and would constitute a breach of plighted honor.

With the passing of the Reconstruction Act over the President’s veto on March 2, 1867, the Radical party reached the peak of its power. It was supported by the great majority of people in the North, it was in absolute control of Congress, it was in a position to dictate government policies, and it stood on the threshold of absolute, despotic control of a third of the country and its people.

All this had been achieved in less than two years time. In
December, 1855, the party had no organized existence. Four months later it had attained sufficient support in Congress to override a Presidential veto. By the fall of 1866 the group was strong enough to sweep the national election. And in March, 1867, it had the force to put through Congress, over the President's veto, a bill which was patently unconstitutional, which was cruel and unjust to a third of the people of the country, and whose only recommendation was party expediency.

Such a meteoric rise would have been impossible, but for three things, leadership, party cohesion, and a happy choice of party principle. The Conservatives were poorly led, and had few men of ability in their ranks. Against them the Radicals set up their efficient organization and their astute leadership. At the beginning of the first session their politicians, men of skill and experience, mapped out the chief features of their program, and decided on the methods of attack. They carefully drew up their plans, which went through unchecked. They secured the Joint Committee at once, and were assured that they would have time to perfect their own program without interference from the President's plan already functioning, or from the delegates from the South who were clamoring for admittance into Congress. They were able to force an open break between Congress and the President, and so made their own plan of opposition to the President considerably easier. To the leaders of the party belongs this early success. The party had still too few members to carry such a program by weight of numbers. But by adroit political manipulation, skillful playing off of interests, and shrewd use of parliamentary technicalities, a very successful beginning was made.
The South was the chief concern of Congress in 1866, and reconstruction was the natural thing for the Radicals to stress. But their stand on it was remarkably fortunate, from their point of view. It is very doubtful whether they ever could have swept to their great success on any other program. Their reconstruction policy coincided with the war bitterness remaining in the North; it was admirably adapted to propaganda, it made fine material for emotional appeal. It was a vote-getter. But even reconstruction, unsupported, could never have made the party what it became. It remained for the party leaders to promote their program, and present it to the public. This promotion was the chief cause of the Radical success. Probably no political party has ever been more successful in its advertising, or used more subtly clever means for furthering its ends.

The one word, propaganda, covers the whole policy of the Radical party, but it tells nothing of the scope of the effort. Men in high places gave interviews colored by Radical sympathy; government officers sent reports substantiating the Radical statements; unknown persons flooded the North with letters bearing out Radical contentions; unsuspecting citizens repeated shocking stories put in circulation by the party press; and unscrupulous politicians falsified reports to gain favor with the party. The Radicals used them all. They carefully built up an elaborate fabrication of lies and mis-representation, and covered their work cautiously, so as to make it all seem spontaneous and true. By these under-cover methods the party gained wide, almost universal, credence for their falsehoods, and were able to use them as a most effective background for their debate.
Because of this peculiar situation, the debates on the Reconstruction act introduced in February, 1867, differ from the debates on almost any subject ever brought up in Congress. Usually debaters offer proof for what they say. Here the Radicals simply made statements without any effort to substantiate them. They could rely on their previous work to support them. There was no debate, in the usual sense of the word. There were only kindling language, and emotional appeal. They simply pointed to their elaborate structure of propaganda and appealed for support. The key to the whole Radical position was expressed by Hotchkiss, when he said "I need not appeal to facts to substantiate what I say. They are patent; every child that reads knows that what I say is true." So wide-spread had been the Radical propaganda that every voter that read thought that what he said was true.

Out of these debates grew a government policy which shaped the whole future of the South. The country was plunged into a labor problem which immeasurably retarded her economic development. Her government became chaotic. A bitter race war developed, inevitably, and this conflict still exists in the South, and continues to produce grave evils, political and social. The reconstruction question was one of the most important that ever faced an American Congress. It is regrettable that the issue was settled on a basis of party expediency, rather than with regard to the future welfare of the nation.
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1) Globe, 39 Cong., 2 sess., 1103.
2) Ibid., 11.
3) Ibid., 15.
4) Ibid., 48.
5) Ibid., 109. The provisions of this bill are preserved only in periodicals. See Harpers, XXXIV, 397-398 (February, 1867).
6) Globe, 250, and 594.
7) Ibid., 817.
8) Journal, 122 et seq.
9) Globe, App., 77-80.
10) Globe, 975.
12) Globe, 1036.
13) Ibid., 1036, and 1076.
14) Ibid., 1182.
15) Ibid., 1213.
16) Kendrick, 405.
17) Globe, 1213.
18) Ibid., 1215.
19) Ibid., 1304, and 1360.
20) Ibid., 1459, and 1469.
21) Ibid., 1340, 1570, 1399, 1400, and 1645.
22) Ibid., House, 1733; Senate, 1976.


26) Ibid. Radicals: Thayer, 1096; Kelly, 1177; Allison, 1181; Stevens, 1076; Morrill, 1367.

27) Ibid. Radicals: Garfield, 1103-1104; Lawrence, 1163.

28) Ibid. Radicals: Maynard, App. 144; Henderson, 1373; Van Horn, 1203-1204; Kelly, 1179; Hotchkiss, 1100; Farnsworth, 1320; Morrill, 1367.

29) Ibid. Radicals: Stevens, 1076; Brandegee, 1076; Thayer, 1195; Van Horn, 1203; Boutwell, 1122; Farnsworth, 1320.


31) Ibid. Radicals: Hotchkiss, 1100; Thayer, 1098.

32) Ibid. Conservatives: Griswold, 1101; Raymond, 1102; Kasson, 1105. Radicals: Shellabarger, 1099; Garfield, 1104; Kelly, 1178-1179; Hotchkiss, 1100; Morrill, 1366.

33) Ibid. Conservatives: Raymond, 1102; LeBlond, 1078; Niblack, App. 103. Radicals: Shellabarger, 1099; Boutwell, 1208.


35) Ibid. Conservatives: Raymond, 1101; Stewart, 1364-1368. Radicals: Thayer, 1097-1098; Shellabarger, 1100; Morrill, 1367; Stevens, 1215.

36) Ibid. Conservatives: LeBlond, 1097; Fink, 1078; Stewart, 1265; Raymond, 1103. Radicals: Kelly, 1177; Allison, 1181; Stevens, 1215.

37) Ibid. Conservatives: Raymond, 1101; Ward, App. 61; Stewart, 1365; Doolittle, 1373; Hendricks, 1373; Griswold, 1100.

38) Ibid. Conservatives: LeBlond, 1078; Fink, 1089; Niblack, App. 103.


40) Ibid. Conservatives: Niblack, 1123, App. 104; Fink, 1079.
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