EXHIBIT D

THE CONGRESSIONAL GLOBE:

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OF

THE FIRST SESSION

OF

THE THIRTY-NINTH CONGRESS:

BY F. & J. RIVES.

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to representation here on the condition that they will allow to these negroes the unqualified right of suffrage on a perfect equality with the white citizen.

Mr. KELLEY. Will the gentleman yield to me one moment for a question?

Mr. ROGERS. Yes, sir.

Mr. KELLEY. I would like to inquire of the gentleman whether it is not possible that the male minor may come to an age that will secure him the right to vote; and whether it is not possible for the unnaturalized foreigner also to acquire that right; and whether, inasmuch as both may acquire it in the current decade, they should not be included in the basis of representation; and whether the mere efflux of time or force of will will change the complexion of an intelligent quadroon, so that he may vote. The freeman who can never vote should not be counted among voters and possible voters in fixing the basis of suffrage.

Mr. ROGERS. I can answer that question by stating to the gentleman that it is not improbable that, even without any constitutional legislation, the States (as many of them have already done in a qualified form, and some upon an unqualified basis) may yet allow to the negroes the same political *status* that the gentleman says may be allowed to the man under twenty-one and the unnaturalized foreigner. The gentleman's suggestion, therefore, does not affect the force of the argument which I am endeavoring to present.

Why, sir, I undertake to say, and I defy contradiction, that this proposed amendment will give to negroes rights that it will not allow to white men. It will allow a State to retain its full quota of representation, though it should disfranchise all its white citizens, not on account of race or color, provided it will enfranchise the negroes. White men may be disfranchised to an unlimited extent by the States and the States still be allowed representation for that whole race; yet if they do the same thing to negroes that whole race is excluded from the basis of representation.

It appears to have in its body, in its soul, and in its life only one great object and aim, that is, to debase and degrade the white race, and to place upon a higher footing than the white men are placed, under the Constitution, this African race.

Now, sir, at the formation of the Constitution of the United States there was not a single State of the whole thirteen which adopted that instrument that did not impose conditions upon the right of suffrage to the white men. Every State constitution which existed at the time the States entered into the Union, and for a long time afterward, imposed qualifications as conditions precedent to the exercise of the right of suffrage on the part of the white men. No man will deny that on this or on the other side of the House. The organic law of the land, if amended as proposed, will give Congress the sovereign power and right to control the States through its power of refusing representation unless the States acquiesce in the contemptible doctrine of negro suffrage.

This amendment allows the States in their sovereign capacity to exclude white men from the polls on the ground of property or any other reason, except race or color, while it deprives the States of representation for doing the same thing to the colored people, as the intent of the States would be construed to be their act, exercised by them, upon the negroes, on account of race or color.

Mr. CONKLING. Will the gentleman yield to me for a moment?

Mr. ROGERS. Certainly.

Mr. CONKLING. Will the gentleman be kind enough to inform the House why he says that such a distinction between races could occur under this amendment? Is it not true of one race as much as another that any qualification or requirement could be imposed? If inflicted upon either race or the members of either race, "on account of race or color merely," then only exclusion from the basis of representation would be worked, but no more in favor of one race, or against one race or color more than another.

Mr. ROGERS. That does not meet the argument that I am making. If they are disfranchised on account of race or color—and that is the only conceivable reason for which they would be construed to be disfranchised—then the whole race would be unrepresented; whereas no disfranchisement of white people would be construed to be done on account of race and color, as it cannot be expected that white people would disfranchise their own people because they were white. The States, in the exercise of sovereign power, can impose such qualifications upon the exercise of the right of suffrage as they please. That right they reserved, and there I want to leave it, free from any penalty.

Mr. CONKLING. In answer to the gentleman's question, I do undertake to say if any State should impose qualifications alike upon white and black, and those qualifications thus impartially imposed should happen to include negroes, because they could not come up to them, notwithstanding that the State would be entitled to its entire negro population for the purpose of representation. I do say that would be the law.

Mr. ROGERS. I do say that no such construction as that can be given the law, because it is a well-settled principle of construction that you must look at the intent and object of the Legislature which passed the law. In the construction of a law you must ascertain what was the mischief the Legislature intended to remedy. That is the way to construe a law. It is a settled maxim of construction that the object and intent of the Legislature are to be ascertained by finding out the mischief it intended to remedy. What is the object of this amendment? What is the injury it is intended to prevent? The injury is that negroes are not allowed to vote on account of their race. The object, then, is to prevent that injury by annexing such a penalty to the continuance of the mischief as will eventually compel the States to grant to the negroes unqualified suffrage. Now, sir, if the States abridge the right of suffrage to the negroes, would not a true construction of this amendment make such action of the States a violation of the organic law, in this, that such action would prevent the aim and object of the law, and for that reason the States would lose their representation for such race? By refusing the States untrammeled sovereignty over the elective franchise you violate the great principle of democracy, that all the population in a country ought to be represented, although not allowed to exercise the elective franchise. The withdrawal of that right ought not to deprive them of representation.

The object of this amendment is to remedy this supposed evil which the members of the Republican party suppose exists in the Constitution in allowing to the States in their sovereign capacity the right to control the elective franchise—either to disallow it entirely, or to put such restriction on it as the States in their sovereign power may dictate. Therefore they claim that the Federal Government ought to take under its wings and under its control this sovereign power of a State by saying to it, "If you refuse to allow a certain portion of your population to vote, or impose conditions upon their voting, on account of race or color, you shall have no representation in the councils of this country for any of the people of that race or color." Why, sir, was there ever anything so unjust in the annals of the history of legislation in this country? Was there ever anything proposed that strikes at the foundation of liberty like this; that pours out the vials of despotic wrath so profusely upon the heads of the people of the southern States—States which now, in my judgment, constitute gallant stars in the galaxy of the glorious old Union of the United States as it existed before the commencement of civil hostilities in this land?

Mr. THAYER. Will the gentleman allow me a question?

Mr. ROGERS. I will.

Mr. THAYER. I desire to ask the gentleman whether that provision of the Constitution which confines the basis of representation to three fifths of this class of people has not been abrogated by war, or rather by the results of the war, in freeing that class of people; whether, therefore, now, the South, notwithstanding this provision in the Constitution, would not be entitled to count the whole black population as five fifths instead of three fifths in computing the number of Representatives to which they are entitled; and whether the result of that computation would not be to add to the representation of the States lately in rebellion on this floor twelve or thirteen members in addition to the number which they had before the war. I desire to ask the gentlemen whether he is in favor of that result.

Mr. ROGERS. I am in favor of that result; and I was just going to show the reason and justice of it. Why, I ask the gentleman, should not the southern States, the colored population of which have been freed by the results of the war, have a representation based upon that population, the same as they were entitled to under the old Constitution in regard to freemen? Did not all the States which freed the slaves afterward have representation for five fifths of them?

Under the Constitution as it now is, representation in all the States is based upon their free male and female persons, without regard to their being of African, Asiatic, or European origin. The Constitution spreads its wings over the whole population; and because slaves in the South were not regarded as a proper basis of full representation—it being decided in the celebrated Dred Scott case that they were not considered as people or citizens within the meaning of the organic law—they had the representation for those slaves cut down to three fifths, on the ground that they ought to have some representation; and as they were mere chattels in the eyes of the law, the States in which that chattel property existed were not entitled to the whole representation that they would or ought to have had, under the organic law with regard to people of that race or color or *status*.

Now, the result of the war has been to change the *status* of that whole population from slaves into freemen. It is a cogent and most forcible argument in favor of the wisdom, genius, and patriotism of those who adopted the old Constitution of the United States, that every free man in a State, of whatever color, was entitled to representation. And that is one of the safeguards of the rights of the State. It was thrown around the States in order that they should have sovereign power to control the right of suffrage to all persons.

The proposed amendment to the Constitution undertakes to consolidate the power in the Federal Government. It throws out a menace to the States, and the inevitable result of the passage would be to induce every State in the Union to adopt unqualified negro suffrage so as not to deprive them of the great and inestimable right of representation for that class of population in the Halls of the legislation of the United States.

Mr. KELLEY. Will the gentleman allow me to ask a question?

Mr. ROGERS. Certainly.

Mr. KELLEY. Before asking the question I desire to say that I am irrevocably opposed to the passage of the amendment to the Constitution now before the House. I ask the question simply to elucidate the argument. I want the gentleman to tell me, if he can, whether there is any reason that when our Government shall be reconstructed, one pardoned rebel of South Carolina who may not be able to read and write, and who may have fought for four years against the Government, shall, in political power, alike on the floor of Congress and in electing a President, outweigh three or five intelligent returned soldiers of New Jersey, who throughout the same four years fought for the Union; and whether, if the colored people of South Carolina be represented on this floor, and yet be denied a vote, the gentleman who will succeed the late Preston S. Brooks will not be elected by a vote so small that it

will take at least five Jersey soldiers to counterbalance the vote of each South Carolina voter in that district? The votes in the gentleman's district will number more than five to one in that district. If there must be inequality, the patriot soldier should, in my judgment, outweigh the pardoned but bloody handed traitor in the councils of the nation.

Mr. ROGERS. The argument which I was making was tending to answer the very objection which the gentleman makes.

Now, sir, I hold to the doctrine of the Constitution as it is, allowing the States to exercise sovereign control and power over the qualifications and rights of the whole voting population. I say that if the State of South Carolina, or the State of Louisiana, in the exercise of its sovereign and delegated powers, sees fit to enfranchise those who have taken up arms against the flag of their country, it is within their discretion and under their control, and under the Constitution of the United States and the organic law of their own States they may exercise that right. And let me say to gentlemen that when the State of Missouri struck at the foundation of political rights and political society and disfranchised one half or two thirds of the population of the State because they took up arms against the country, it degraded the memory of Washington and his compeers who declared by revolution and appeal to God that they would be free from Great Britain because she attempted to exercise the powers of despotism and tyranny over them, and the action of that State is a burning disgrace upon the proud record of civil, political, and religious liberty in this country.

Ah! sir, it will yet have to be admitted—it has been admitted by all men—that the right of revolution is an inherent power which God Almighty has implanted in the human breast. Whenever a people believe they are oppressed by despotism and tyranny, and have sufficient power to throw them off, they have the right to resort to revolution.

Without saying anything in disparagement of the sages and heroes of the Revolution, do not let us forget that had it not been for revolution the first flag of liberty would never have been planted on this continent; and that by the blood of the sires of the Revolution are we to-day enjoying, because of their revolution against England, the proud heritage of civil liberty, which I want to hand down to the people of this country and their children and children's children unimpaired for ever and ever.

Now, sir, do not let me be reported as favoring secession. I am here to stand by the doctrines of Andrew Johnson. I am here to reconstruct these States at once. I would go further. I would open the halls of legislation in this country to our erring brethren, and in a Christian spirit say to them, "Come here through your Representatives into the Halls of Congress; let us bind ourselves together as a band of brothers, and march in joint phalanx to the halls of the Montezumas, and drive the imperial despot from his throne." [Applause in the galleries.]

Sir, it is because I love my country, because I love these States, because I love the grand foundations of liberty which were cemented by the blood of our fathers, that I invoke the Power above to so control and direct our hearts that every single one of the stars and stripes which now emblazon themselves upon that glorious flag shall wave in triumph from one end of this country to the other. It is because this joint resolution saps the foundation of the principles which induced our fathers to spill their blood upon the battle-fields of the Revolution that I, in my humble capacity as a Representative of one of the old thirteen States, and as a Representative of this whole Union, use my voice and my power in behalf of that great constitutional Government which gives us peace, liberty, happiness, and prosperity, and whose foundations were laid broad, strong, and deep in the beginning by George Washington and the other patriots and heroes of the Revolution.

Sir, why should South Carolina, North Carolina, Virginia, Florida, and the other glorious States of this Union have such a law as this passed upon them, taking away representation from half their population, when tyranny and despotism are preventing their Representatives from entering the Halls of legislation of the country, and preventing them from joining the body of the *vox populi* and speaking out in opposition to the legislation proposed by the portion of the States now assembled in Congress?

Why, sir, take two or three States of the South; take South Carolina and the other three States whose negroes constitute a majority of the population. By the passage of this joint resolution you strip them of more than one half of the whole representation for which their fathers, side by side with the men of the North, shed their blood; that blood which now glows in the veins of us, their descendants. That representation they derived, based not upon the voting population, but upon the whole people who are free, without regard to their race or color. If this amendment shall pass, and New Jersey shall alter her organic law and strike from it the word "white," and give to her colored population a qualified suffrage, still she can have no representation for any of the race or color who have their franchise abridged by reason of that qualification. Would it not be better, be more consonant to reason and to common sense, would it not be doing according to the injunction of Holy Writ, "Do unto others as ye would have others do unto you," to submit this organic law to the people of the different States? This amendment provides that whenever any portion of the colored population shall have but qualified suffrage, on account of race or color, the whole of that population shall be excluded from the basis of representation. It goes so far that if New Jersey pass a law allowing such of her black population to vote as can read the Constitution of the United States, and although every negro in that State could take advantage of that qualification and could read the Constitution of the United States except one, then New Jersey would lose the advantage of representation for the whole of that population. Will honorable gentlemen stand here in the face of this country, and the intelligence and patriotism of the masses of the South, and say to them, now when reason ought to have resumed its sway and the roaring of cannon ceased, "we shall so far exercise our power in a tyrannical manner as to prohibit representation to a State for its colored population if a single man of that colored population is prohibited from voting by the operation of a qualification based upon property, intelligence, or anything else?"

But I object to this joint resolution upon another ground—upon the same ground that I objected to the passage of the negro suffrage bill for the District of Columbia—without consulting the people. It has been said in this country that all power emanates from the people. And I say that to submit this grave question to the consideration and decision of partisan Legislatures in the different States, Legislatures which were elected without any regard to this question, is violative of the great principles which lie at the foundations of the liberties of this country; that no organic law, affecting the whole people, should be passed before submitting it to the people for their ratification or rejection. Now this joint resolution proposes simply to submit this amendment for ratification to the Legislatures of the different States.

The Legislatures are not the States; the Legislatures are not the people in their sovereign capacity; Legislatures are not the source from which all power emanates. But the people, the sacred people, in the exercise of their sovereign power, either at the ballot-box or in conventions, are the only true and proper forum to which such grave and serious questions should be submitted. If the people of the United States want negro suffrage, unqualified and unabridged, to be adopted in the United States of America, I, as a Democrat, as a citizen believing in the power of the majority, will yield to their decision. But I want that decision rendered in the manner contemplated by the spirit of self-government and not by Representatives of the people who have not been elected with reference to the decision of this question. Let it be submitted to conventions of the people, the delegates to which can be instructed to vote for or against inflicting a penalty in this indirect manner upon States, if they do not choose to adopt the policy of unqualified negro suffrage.

Why, sir, as I stated in the argument I made against the adoption of the bill passed by this House to inflict the disgraceful policy of negro suffrage upon the unoffending, harmless, and unprotected people of this District, I am now here to remind gentlemen that the State of Kansas was refused admission into the Union because her constitution, framed by the convention at Lecompton, had not been submitted directly to the people for their ratification or rejection. And you may look through the history of the States, and you will find nowhere in modern times, within a period of forty years, a State that has adopted or changed its organic law without first submitting the proposition which its Legislature or convention has adopted to the people at the ballot-box, where they can decide directly whether they want it or not.

Now, gentlemen, I am ready to meet this negro question. I am ready to go before the people of this country upon this policy; and I say that if we submit this question to the sovereign people in the election of delegates, so that they may pass upon it directly, we shall then have at least an invitation on the part of three fourths of the States to the other States to adopt unqualified negro suffrage. But when this question is submitted to the Legislatures that were elected without any regard to the question embraced in this bill, controlled by party rules, and acting under the party whip, they will be compelled to adopt it as a party measure, whether they approve it or not, as many members in this House voted the other day upon the question of negro suffrage in the District of Columbia.

Now, sir, when the Constitution was adopted every State that then constituted the Union had a negro population, quite a large population, too; and every State except the State of Massachusetts had a slave race. Now, sir, with a few exceptions, the negroes were not permitted to vote. By the Constitution of the United States none of them could exercise the right of voting; it was only under the organic laws of the States, adopted in the exercise of their sovereign power, that the negroes had the right to vote in any State. Yet neither the framers of the Constitution nor anybody else at that day claimed that it would not be right to allow representation for the colored population, whether that population was entitled to vote or not. Now, sir, I maintain that the Constitution of the United States, as it now exists, is not as liberal toward the southern States, now that slavery has been abolished, as it was before the abolition of slavery. Why, sir, in the days of the past, under our Constitution, the southern States have been allowed a representation for a population that was not classed as citizens or people; they were allowed a representation for people who had no political *status* in the State, persons who were not entitled even to exercise the right of coming into a court of civil justice as a plaintiff or defendant in the prosecution or defense of a suit.

Now, after the raging fires of war have swept from the domain of every State in the South the pernicious institution of slavery, after the result has been that every slave has received his freedom, after the slaves have gained more by the success of this war than any other class of people in the United States, white men, men who are the representatives of the white race, come here proposing to compel the States, on pain of being deprived of a portion of their representation, to allow all the negroes within their limits to vote, without regard to qualification or anything else, while under the same provision the State may, by its organic law, impose qualifications and conditions upon the exercise of the right of suffrage by the white population.

Why, sir, four million slaves have been set

free; $3,000,000,000 have been expended in setting them free. In the northern States, for the purpose of carrying on the war, we have run up a county, township, and State indebtedness of $1,500,000,000 or $2,000,000,000 more. Five thousand million dollars have been expended; five hundred thousand brave white soldiers who left their families to go into the war; men without property; men whose hearts glowed with patriotism; have been sacrificed on the altar of negro philanthropy. Yet the ruling party is not content with robbing the South of millions of dollars invested in slaves and nearly ruining the country to free them, but they seek to inflict a disgrace upon the Anglo-Saxon race of the South by coercing them to bestow upon these slaves political rights after they have been taken away from their masters without compensation.

I think it time that we should begin to legislate for white people. What are the object and intent of this bill? Simply to force upon an unwilling population, in this indirect manner, negro suffrage, when the States of the gentlemen advocating this measure have not adopted negro suffrage. The gallant little State of Connecticut has repudiated negro suffrage by six or seven thousand majority. Why should you undertake, in this way, to force the doctrine of unqualified negro suffrage upon the southern States when your own States repudiated it? I have too much reverence for the fathers of our Government to give my approval to such a measure. I have not forgotten that our Government was established for the benefit of the white population of the country.

I have not forgotten it was white men who put down the tyranny of England and established the principles of liberty on this continent. I have not forgotten it was the white men of the northern States who went in thousands to the banks of the Mississippi to drive back the invaders from our soil. Yet when a soldier who fought for his country happened to be under twenty-one years of age, or unnaturalized, he was not permitted to vote, while the whole class of negroes must have that right until they adopt it and pass such laws as will give unqualified suffrage to the negro race.

It will not do to attempt to deny what is the object of this bill. This amendment is to constitute one of the barriers, to be devised by the committee of fifteen, to keep the South out of the Union. It is one of the points of that committee. Its object is to keep the States out. Let us extend to the southern people the hand of fellowship, and so let us act that they will regard the Constitution and the Union more sacredly than ever before. Let us look upon them as the father looked upon the prodigal son. Let us look over their violations of law, and take them again into full fellowship. In this way we will render the Union stronger than ever; and those southern States will then constitute, as they have done in the past, a bright galaxy upon the flag of our country.

The southern people are entitled, in my judgment, to representation without such qualifications as much as the northern men. When Andrew Johnson appointed southern men provisional governors of the southern States he did it in a spirit of Christianity and humanity. I beseech you not to pass legislation of this kind, because it will engender a spirit that will drive every sentiment of Union from the southern States. It will inflict an injury upon both the northern and southern States. It will diminish the representation of New York, Pennsylvania, and New Jersey, because it will exclude from the basis of representation the negro population of those States.

[Here the hammer fell.]

Mr. CONKLING. Mr. Speaker:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons."—*Constitution, art. 1, sec. 2.*

This is the provision by which apportionment and representation have till now been regulated in the United States. It is one of the compromises of the Constitution.

Strange as it may seem to the gentleman from New Jersey, [Mr. ROGERS,] it owes its existence to the same principle asserted in the pending amendment. What is that principle? That political representation does not belong to those who have no political existence.

The government of a free political society belongs to its members, and does not belong to others. If others are allowed to share in its control, they do so by express concession, not by right.

It was this principle which rendered necessary such a provision as I have read. It was this principle which brought that provision into our national charter.

The slaves of the South were not members of that political society which formed the Constitution of the United States. They were without personal liberty, and therein they were without a natural right, not a political right; but they were also without political rights, and therefore they were not members of the political community.

From this it followed that they were not to be represented as members.

From this it followed that political power was not to be apportioned by treating them as political persons.

Natural persons they were, producers they were, and the product of their labor was the proper subject of taxation.

But direct taxes and representation ought to be distributed uniformly among the members of a free Government. All alike should bear the burdens; all alike should share the benefits.

Here was a clear principle, palpably right and easy and certain in its application. It applied itself. It applied itself universally, and covered the whole case with only one exception.

I do not treat "Indians not taxed" as an exception, because uncivilized Indians in their tribal state were so far beyond the scope within which the Constitution was to act that they were named only to prevent possible mistake as to the meaning of language.

Neither was a fixed exception, or even an obstacle, found in the case of aliens or unnaturalized foreigners.

The Constitution was to leave to the States and to give to the Congress power to clothe foreigners with full political rights as fast as they should be prepared to assume them. The only question remaining, therefore, as to them, was how they should be treated during the interval between their arrival and their naturalization, during their political nonage.

This question was disposed of in the liberality in which the Government was conceived. The political disability of aliens was not for this purpose counted at all against them, because it was certain to be temporary, and they were admitted at once into the basis of apportionment.

The slave alone was the anomaly and the nondescript.

A man, and not a man. In flesh and blood, alive; politically, dead.

A native, an inhabitant, a producer, but without recognized political attribute or prerogative; the representative in the system of nothing but value.

What could be done with him? He was nowhere.

It could not be maintained by the slaveholding States that slaves were persons to be represented. It could not be maintained by the free States that slaves were persons to be taxed. For these purposes slaves were excluded altogether by the principle on which the Government was built. They were not embraced within it because they had no political standing in the States wherein they were held. Without some special provision, therefore, they would have been altogether ignored.

Taxes, however, were desirable on the one side and representation on the other, and for mere convenience a compromise was invented for the sake of both.

A purely arbitrary agreement was made and inserted in the Constitution, an agreement with nothing to support it but the consent of the parties, based upon the facts as they then stood. It was agreed in substance that the free people of all the States should be counted alike, and should all have their fair share of power as thus ascertained, and that then the free people of the slaveholding States should have as much power beside as would be measured by counting every slave as three fifths of a "person;" direct taxes to follow the same rule. The power thus agreed upon could not be exercised by the fractional persons themselves, but as somebody else owned them, it was so arranged that that same somebody else should own the political power also.

The covenant, whether wise or not, was operative as long as there was anything for it to operate upon.

That time is past. The provision has become impotent. The fall of slavery has superseded it. We have nothing now to rely upon in its place but the residue of the second section of the first article of the Constitution. That section, owing to the rupture of the technical tie of slavery, would, as it stands, work out results now which, when the Constitution was made, were condemned by the judgment of all.

"Free persons" was the term employed to describe all who had political rights and standing, because only slaves had neither.

But now a new anomaly exists. Four million people are suddenly among us not bound to any one, and yet not clothed with any political rights. They are not slaves, but they are not, in a political sense, "persons."

No figment of slavery remains with which to spell out a right in somebody else to wield for them a power which they may not wield themselves. This was one of the appurtenances of property in man, and has been extinguished by constitutional amendment, if it was not destroyed before.

This emancipated multitude has no political *status*.

Emancipation vitalizes only natural rights, not political rights.

Enfranchisement alone carries with it political rights, and these emancipated millions are no more enfranchised now than when they were slaves.

They never had political power. Their masters had a fraction of power as masters. But there are no masters now.

There are no slaves now. The whole relationship in which the power originated and existed is gone. Does this fraction of power still survive? If it does, what shall become of it? Where is it to go?

We are told the blacks are unfit to wield even a fraction of power, and must not have it. That answers the whole question. If the answer be true, it is the end of controversy. There is no place logically for this power to go save to the blacks; if they are unfit to have it, the power would not exist. It is a power astray, without a rightful owner. It should be resumed by the whole nation at once.

It should not exist; it does not exist. This fractional power is extinct.

A moral earthquake has turned fractions into units, and units into ciphers. If a black man counts at all now, he counts five fifths of a man, not three fifths. Revolutions have no such fractions in their arithmetic; war and humanity join hands to blot them out.

Four millions, therefore, and not three fifths of four millions, are to be reckoned in here now, and all these four millions are, and are to be, we are told, unfit for political existence.

Did the framers of the Constitution ever dream of this? Never, very clearly. Our fathers trusted to gradual and voluntary emancipation, which would go hand in hand with education and enfranchisement. They never peered into the bloody epoch when four million fetters would be at once melted off in the fires of war. They never saw such a vision as we see. Four millions, each a Caspar Hauser, long shut up in darkness, and suddenly led out into the full flash of noon, and each, we are told, too blind

the starving white and black, to give the right to hold real and personal estate to the negro, to enable him to sue and be sued in courts, to let him be confronted by his witnesses, to have the process of the courts for his protection, and to enjoy in the respective States those fundamental rights of person and property which cannot be denied to any person without disgracing the Government itself. It was simply to carry out that provision of the Constitution which confers upon the citizens of each State the privileges and immunities of citizens in the several States. These measures did not pretend to confer upon the negro the suffrage. They left each State to determine that question for itself. Their highest aim was to secure what the lawyers call civil rights to every person within the jurisdiction of the Government. The necessity for these or similar measures was imperative. To have failed in this duty would not only have rendered the results of the war perfectly abortive, but would have completely withered the laurels we won in its successful prosecution.

The President saw fit to veto these measures, supposing them to be unconstitutional. I never doubted the power of Congress to pass them. I never doubted that the Government would be disgraced if it failed to establish for the private citizen the muniments of freedom intended to be secured by them. I did have my doubts whether this was the best way to accomplish the end. It would necessarily bring about a conflict between State and Federal jurisdiction. I knew it would meet with resistance in the States. I thought it would be repulsed, as even beneficence itself is always repulsed when forced on an unwilling community. I feared that in the conflict to arise the rights of the weak would be lost sight of, and finally sacrificed. I then believed, and do now believe, that the necessity for these measures is an unfortunate necessity. That necessity cannot exist where the local government is founded upon the consent of the entire people. The people of Georgia know what laws are best for their own happiness and security. But when one half of the people legislate for all this truth ceases in its application. Let all have a voice in making the law and the popular heart will execute it, because the liberty of all consists in its enforcement. It is only where political power is in the hands of a favored few that oppression can be practiced. It is only where oppression exists that the agents of a superior power are needed for protection. Give the negro the ballot and he will take care of himself, because his interest requires it. Give him a bureau agent, and he will sometimes be plundered, because his interest and the interest of the agent may differ.

At an earlier day in the session I offered a proposition which I thought would secure these ends. It was a constitutional amendment in three lines. It prohibited the States, in prescribing the qualifications of voters, from discriminating against the negro on account of his color. Had this been adopted, by its own force it made him a citizen in each State, because it gave him the highest prerogative of a freeman. There would then have been no necessity for declaring who are citizens of the United States, for every freeman would have worn the honored badge of citizenship. It would then have been useless to declare that no State shall abridge the privileges and immunities of citizens of the United States, for those simple words presented an effectual bar against it. It would have been superfluous to interdict the States from taking life, liberty, or property from the citizen without due process of law; for liberty being first given, the citizen can protect his own life and property. The provision securing equal protection of the laws against inimical State legislation might then be dispensed with as wholly unnecessary. The very section we are now considering, with all its difficulties of verbal adjustment, might be abandoned and the Constitution be left in that respect as our fathers made it. The necessity for abridging representation would have ceased, for both representative and elector would have been loyal. These few words would have accomplished directly what this proposes to accomplish indirectly after years of political strife, in which truth and conscience and patriotism are too often sacrificed to the attainment of success. Had that been done it were useless to enact an exclusion from office of the leaders of the rebellion. Where all men are interested in the Government, none but peaceful revolutions are needed. Reforms are worked at the ballot-box. Government then, and only then, becomes a divine institution. Rebellion against it not only injures the public weal, but it shocks the moral sense of a contented and happy people. They who lead such rebellions are at once visited with public odium. In public estimation traitors then stand as the greatest of criminals. They are looked upon as monsters in human shape. Cain bore the mark of one crime—murder; but a people perfectly free will never fail to stamp traitors, as they deserve to be stamped, with the mark of all crimes.

If that proposition had been adopted we need not pledge our faith to the payment of the public debt. That faith would have been best secured in the honest convictions and the moral sense of the people. Had it been adopted, we need not have proclaimed by constitutional enactment the invalidity of the rebel debt, founded as it is upon contracts made in contravention of public policy, against the best interests of the State, in violation of the laws of the land, and for the purpose of enslaving the very men whose substance would be required to pay it.

But, Mr. President, in all this I may have been mistaken. The presumption is, I was mistaken, for a large majority have ruled against me. I yet have faith in its ultimate success. Necessity, if nothing else, will soon bring believers. Believers may be now few, but as through the faith of the Hebrew mother, so again they will soon be "many as the stars of the sky in multitude, and as the sand which is by the sea-shore innumerable."

The old saying is true, that we must take things as we find them. I am somewhat an optimist, and this at last may be the best. The negroes during the war were our faithful allies. They are now steeped in poverty and must remain so unless Congress does something to help them. The poor whites of the South are not in a much better condition. State governments are already in the hands of those hostile, through prejudice or interest, to their improvement or amelioration. The legislation of these governments even now frets with oppression. Within the scope of State jurisdiction there is no such thing as equality in the law. The State courts are already deciding the "civil rights bill" to be unconstitutional. The validity of all laws must depend at last upon human judgment. Judges, even in the highest courts, are but mortals. Should the Supreme Court of the United States affirm the judgment of these inferior tribunals, the present period would be no better for the rights of the negro than that when the Supreme Court once before supposed he had no rights which the white man was bound to respect. Should such be the action of this tribunal, the problem would at once be presented, whether four million people can be peacefully held nominally free, but actually slave.

If it be true that these negroes are not susceptible of education; if they are more nearly allied to brutes than to men; if as free men they can add nothing to the wealth of the country; if they are unfit to take part or lot in the State governments, it may be asked, why should they be represented in Congress? If they are incapable of choosing a Representative for themselves, why should those who treat them as inferior beings, and almost deny their humanity, claim the right to represent them as citizens? It is said that women and aliens in the North are retained in the basis of representation, why should not the negroes be retained in the South? It may be answered that these women and aliens are treated as human beings; they are regarded as persons and not dumb brutes; they enjoy the right to acquire property, to enter the courts for its protection, to follow the professions, to accumulate wealth, whereby national resources are increased and national power augmented; they are a part of the people. The road to the ballot is open to the foreigner; it is not permanently barred. It is not given to the woman, because it is not needed for her security. Her interests are best protected by father, husband, and brother. The negro is the object of that unaccountable prejudice against race which has its origin in the greed and selfishness of a fallen world. That prejudice belongs to an age of darkness and violence, and is a poisonous, dangerous exotic when suffered to grow in the midst of republican institutions, where we boast an asylum for the oppressed of every land. Why do we shudder to meet this question? Nearly five million people, strong, vigorous, and inured to labor, are in your midst, partially without civil, wholly without political rights. What will you do with them? You have three alternatives before you, and only three. You must kill them, colonize them, or ultimately give them a part of your political power. For this last alternative the country is not yet prepared. With the two former humanity and common sense will successfully struggle.

But I am told that this proposition will operate as a penalty on the South. Suppose it were a penalty from which she could not escape, would it be an adequate punishment for the crime committed? Might it not, if justice untempered with mercy were consulted, be made a permanent rule until the public debt were paid and the curses of treason were effaced from the land? If it be a penalty, it is one which the offender may escape. It is likened unto the penalties of the divine law. The choice of good and evil is before them. The indulgence of evil is followed by punishment, because it is an inexorable law of man's organization. The choice of good is followed by happiness, contentment, prosperity. It is thus wisely ordained, that interest may constrain to duty, in the exercise of which the world is advanced and man is ennobled. This may be called a penalty, but a simple act of justice will fully discharge it. It is equal, for it applies to all the States.

Another advantage consists in the fact that it compels the moral and intellectual culture of the lower classes. If not properly qualified for the exercise of the ballot, the State governments may fall into the hands of incompetent and dangerous persons. Until all can vote, all cannot be represented. All cannot safely vote until a large majority are educated. This provision, then, may constrain to justice in a double sense. The strong argument in favor of it is, that as the Constitution now stands four white voters in the South, formerly soldiers in Lee's army, will be equal in representative power to six of those who followed Grant from the Rapidan to Richmond or Sherman from Atlanta to the sea. I therefore accept it, in the hope that the South, seeing its true interests, will, even before the next census, learn to seek justice for themselves in the exercise of the golden rule.

The third section of this amendment provides that no person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Congress may by a two-thirds vote of each House remove the disability. The language of this section is so framed as to disfranchise from office the leaders of the past rebellion as well as the leaders of any rebellion hereafter to