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Lot M. Morrill

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SPEECH

OF

HON. LOT M. MORRILL,
OF MAINE,

IN THE SENATE OF THE UNITED STATES, FEBRUARY 5, 1868.

The Senate having under consideration the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto—

Mr. MORRILL, of Maine, said:

Mr. PRESIDENT: I am but too sensible that I come to the discussion of this question at a time when I fear it must be anything but agreeable to the Senate to attend to any further consideration of this subject—that I am to glean in a field where the reapers have been many, and although the harvest has been abundant it has been gathered. On a motion collateral to the measure, a debate has been precipitated by the opponents of congressional reconstruction which has opened to the Senate and to the country that great subject in all its amplitude and in all its relations—the whole field of the war, the powers of the Government, the relations of the States, and the authority of the President and of the Congress of the United States in the exercise of their functions for the restoration of the "insurrectionary" States to the Union.

Congress has been arraigned, and presented to the country, for the part it has taken in this great work of reconstruction. It has been arraigned now on this question of reconstruction, as it was arraigned during the war on the question of war. Congress, in the contemplation of the Constitution, being the great war power of the Government, necessarily taking upon itself that function, in giving direction to the conduct of the war, at once brought down upon its head the denunciation of the bold, bad men who were in rebellion, the fierce and bitter criticism of all parties who hesitated or doubted as to war as a remedy for the nation; and, in fact, all persons and all factions here and everywhere who questioned the authority of Congress to deal with the rebellion on the war side of the Government.

And now the honorable Senator from Wisconsin [Mr. DOOLITTLE] precipitates the question from which arise the same issues against the exercise of the powers of Congress in the consideration of the policy of reconstruction and restoration of these States to their relations with the Federal Union; and I beg to be allowed to say that the same spirit which characterized the denunciations of Congress during the war is displayed here to-day. Passionate invective, fierce and bitter denunciation of the purposes and the measures of Congress, characterize this debate by its opponents. Congress is denounced now, as then, as usurping the "rights of the States." Congress is denounced now, as then, as establishing arbitrary military authority in these States. Congress is denounced now, as then, of a purpose "to outlaw the white race" in its "blind zeal," in the language of one honorable Senator, "to exalt the black race." We are charged specifically with "disrobing the white race to enrobe the black race." We are charged specifically with violating the Constitution of the United States "in order to give power and dominion over the white to the black."

These, then, sir, are the charges and the specification of charges in the arraignment of Congress on its reconstruction policy. Outlawry of the white race! Naturally enough one asks himself who is the white race here referred to of which Senators on this floor aspire to be the champions? Who are they in the history of this country? When the white race is referred to here as having been legislated against by Congress, who is meant? The class of white men who have dominated in the South for the last thirty years—they, and nobody else; the white men who are in power under the sham States set up by executive usurpation, and exercising that power exclusively to the oppression of the rest of the population of the South. They, and they alone,

are the white race referred to; and who are they? Men whose hands are freshly imbrued in the blood of our children; men who for thirty years have cherished the malignant passion of hatred to this Government which eventuated in civil war and blood; men, moreover, who for a generation, nay, for two hundred years, have cherished a fiendish lust for dominion over their fellow-man, in defiance of the law of God, the principles of our holy religion, and the laws of every civilized nation on earth. This is the party in court; this is the white race between which and the representatives of the loyal American people, the Senators who have precipitated this debate, and who have made it incumbent upon Congress to consider it, interpose and volunteer their arguments and their sympathy to defend.

Mr. President, to these charges and specifications of charges, to this alleged usurpation of the rights of the States—this supposed outlawry of the whites, this establishing of military despotisms by Congress to the overthrow of ten States of this Union—is there any answer? It has been answered; first, by my honorable friend from Indiana, [Mr. Morton,] fully, eloquently, logically, conclusively answered—answered many times by those who have followed him in debate; so that absolutely now there is nothing left for me save only to add my feeble voice in testimony and approbation of what has been said on this side of the Chamber.

How does Congress meet this assumption of usurpation, of the establishment of military authority over ten States? I will read you the answer: "An act to provide for the more efficient government of the rebel States," passed March 2, 1867. Let me refer you to its provisions:

"Whereas no legal State government or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That said rebel States shall be divided into military districts and made subject to the military authority of the United States, as hereinafter prescribed."

Then the third section provides:

"That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish or cause to be punished, all disturbers of the public peace and criminals."

Further, in section five, it is provided:

"That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates," &c.—

they may be admitted again to their relations with the General Government.

Now, sir, to the opponents of congressional reconstruction I have to say, in answer to your specific charge that we have established mili-

tary despotism in these States, that finding anarchy, misrule, despotism, and disorder in these States, as the result of the rebellion, insurrection, and civil war waged by them, Congress by law, under its authority as the great war power of the nation, and bound to regard the results of the rebellion, has interposed its military authority as a police power to preserve order and protect life and liberty in these States.

Does it go any further than that? Has any Senator on the other side attributed to it any other power than that? No, sir. Its purpose, then, was to protect persons and property. Was it necessary? I do not stand here at this late day to argue that, of course. Allow me to refer Senators who doubt that to the current events of history, to that general information open to all the citizens, by which at the time when this act was passed it had come to be the settled judgment of the nation that there was no protection for life or property in these States. The courts were not open to the citizens of the United States; they were closed to a class, as they had been for two hundred years. Here was the grand necessity for the interposition of the military police authority of the Constitution of the United States to preserve order. That is the answer, the full answer, explained in the preamble to the enactment itself. The preamble declares that no legal State governments exist in those States. Is it pretended here that there are any legal State governments existing in those States at the present moment? This explains the motive and the purpose of the law which is characterized by the Opposition in the Senate as having established a military despotism over ten of the States of the American Union.

When Senators talk of usurping the rights of ten of the States of the American Union, to what States do they refer? Do they refer to the "slave States" that existed anterior to the rebellion in 1860; to the "rebel States that existed during the war of the rebellion? Do they refer to the "belligerent States" of that period? Or do they refer to the "insurrectionary States," so denominated by the acts of Congress?

Mr. President, the argument about the interference of Congress with the rights of the States is of course upon the assumption that the rights of these "insurrectionary" States have an existence. If the rights of these States disappeared by the events and in the progress of the war, then, of course, the charge falls to the ground. Now, upon what theory is the notion of the "abiding rights" of these States based? It is based upon the theory that, after all, it turns out that the nation has not been at war in a legal sense. It is upon the theory of the honorable Senator from Maryland, [Mr. Johnson,] argued here during the rebellion, argued many times since, and, of course, always ably and well, that we have had no war in the sense of war; that we have only been engaged in an effort on the

part of the Government to put down an insurrection; that what we have seen and witnessed in the last six years is only the exercise of the police power of the nation in dealing with insurrection, and in no sense war. That I understand to be the position of the honorable Senator from Maryland, of Senators in the Opposition here, and in the country, and is the logic of all opposition to reconstruction either by Congress or the President; the Senator from Maryland sees very clearly that if we have been at war certain war rights have been acquired by the Government; that if the Government waged war on rebellion certain grand results would follow; the nation would be victor; somebody would be defeated; rights would be acquired or lost according to the success or the defeat of the respective parties to the war. So the honorable Senator early concurred in the ground taken by Mr. Buchanan and by those who held that we had no remedy against the rebel States by war; and that the only exercise of authority by Congress, or the President, or the nation at large, was the exercise of the police power of the Government to put down insurrection; and that we had, under the Constitution, no authority whatever for war; that war was destruction of the Union, and could not be exercised.

In the judgment of the nation I do not think this was correct. As a legal point I am sure it was ingeniously taken; but it has lost its power for good or ill; it was overruled by the judgment of the nation; it was overruled by Congress; it was overruled by the Executive; and, unfortunately for the argument, it was overruled by the Supreme Court of the United States. Still, those who oppose congressional "reconstruction" as against "restoration" fall back always, ever, and continually upon the abstract doctrine that the nation had no power to make war, and of course, gets no rights of war, and consequently the rebel States were not involved in the disabilities, pains, penalties, and forfeitures of the war. That is the logic, the legal and constitutional argument of the Opposition to congressional reconstruction.

On this theory we have learned to miscall things altogether. On this theory the grand Army of the Republic, three million men, were only a *posse comitatus*, not to enact war, but to preserve order and arrest traitors. Lieutenant General Grant, at the head of all the forces of the United States, was only the high constable of the nation; was in no sense a military chieftain; he was not prosecuting war; he was trying to keep order; and his grand march from the Rapidan to Richmond was not a campaign in the sense of war, by which rights were to be enforced or lost, but it was simply a movement of the high constable with a *posse comitatus* to Richmond to force that city to keep the peace; not for its capture; not to destroy it, if need be. In the light of this interpretation of the Constitution, all your battles—Antietam, Chancellorsville,

Gettysburg, Williamsburg, the Five Forks, and the surrender—are all nothing, so far as affecting the rights of the parties is concerned; the Government having prosecuted this war for four bloody years at an expense of blood and treasure, unparalleled in history, came out where it went in, settling nothing by this "last resort," an appeal to arms.

On this showing the question of secession is an open question. On this showing the emancipation proclamation, which was but an expression and an act of the war power of the Government is a nullity necessarily, and all that you have done changing the institutions, constitutions, or laws of the rebel States is null and void, inoperative, and not binding on anybody. On this showing nothing has been settled by this war. It was simply the exercise of a police power; it was not the exercise of that war power of the nation which alone could change results and which was omnipotent over constitutions and laws, institutions and individual rights; and whatever was determined by it was settled forever.

Now, sir, on this theory I understand to be based all the arguments of the Opposition to the power and authority of Congress to reconstruct these "insurrectionary" States. They all proceed on the theory that no rights were lost by the war; that it worked no subversion of State governments, no change of State constitutions or State laws, and therefore no reconstruction was at all necessary or expedient. The argument of the Senator from Indiana, [Mr. HENDRICKS,] is based on this theory. He affirms as his belief that the State constitutions and State governments came through the war. The States went in with constitutions and governments, and they came out with constitutions and governments, with all their rights, privileges, and immunities unimpaired. Upon what theory can he assert this? Simply upon that to which I have referred, that we have not been at war, that we have been engaged in a great struggle to preserve order, and that during that struggle we were bound not to do damage. Nay, we have had it quoted upon us here often that in 1861 we resolved that we would not do damage, that we were prosecuting the war, as we then called it, inaptly enough to be sure, it would seem, we were prosecuting the enterprise, if you please, or carrying on the struggle, not with a view of subverting institutions, State governments, or anything of the sort, but that at the end all these institutions, governments, States, and interests should be restored. Strange delusion of the times! But, sir, in the providence of God it was not to be so.

But, Mr. President, I do not propose to detain the Senate by elaborating that point. What I mean say, to return to the point for a moment, is that the nation was at war with all the rights of a nation at war is not an open question. The effect of this war upon State governments and State institutions is not an open question. The Congress of the United States, the supreme

legislative war power of the Government, settled it in 1861 by the act declaring non-intercourse with these States. It settled it again in 1862 by the act declaring them public enemies and awarding against them confiscation of estates and freedom of their slaves and civil and political disabilities to those engaged in rebellion—both the exercise of the supreme power of war on the principle of public law, and adequate, if prosecuted to extremes, to work an entire revolution in the governments of those States. It was settled also by the supreme executive authority of the Government of the United States in the execution of these laws, the issuing of the proclamation of non-intercourse under the act of 1861 and the enforcement of the act of 1862, and by the march of its armies within the limits and jurisdiction of these States, the destruction of their cities and their towns, the overthrow of their institutions, liberation of slaves, the destruction of life and property wherever the Army made its way, leaving desolation and destruction in its track. Was that war or the exercise of the police functions of the Government? Sir, it was war in its most terrible reality. It was so adjudged, moreover, finally, by the supreme judicial tribunal of the Government, that the war waged by the Government of the United States against the "insurrectionary States" was in fact and in law, under the Constitution and by the principles of public law, war, and that it gave to the Government of the United States all the powers and authority and rights of war which any one nation could properly have against another nation.

Now, sir, is that an open question? I understand the theories and the speculations of the learned Senator from Maryland, for whose opinions no man can have a more profound respect than I have. I am not arguing the question with him, but I am simply stating the facts of history; I am stating simply the current events of the war, which overrule his opinions; and which, sound or unsound, show they are no longer of the slightest practical importance to anybody but himself. The contest was a war; and the nation had all the right of a nation at war; and the results of the war involved the enemy, the domestic enemy, in all the pains and penalties and forfeitures and disabilities of a nation at war. That is the verdict of all the departments of this Government, legislative, executive, and judicial, and it is conclusive. It is conclusive with the present of the nation, it is conclusive with the past, and it will be conclusive with the future. All institutions, constitutions, interests, courts of law, general or State, must and will conform to this great, historical fact of war, war on the part of the nation rightfully and properly waged, with all the rights of a nation at war, and with all the results of a victorious and conquering nation.

This is the record on which Congress stands; but it is not all. I am now speaking of the effect of war on the organization of these

States. My argument is, that its results were attended with annihilation of State governments and "State rights." Who, sir, as a lawyer, will stand here now, after this general judgment of the concurring and coordinate departments of the Government of the United States, and argue for State rights "in the insurrectionary States?" State rights, in the extreme sense always a political fallacy, has by war in these rebel States become an absurdity, a legal and constitutional paradox. As a serious proposition, as a basis of legislative action here, it is an arrogant and impudent assumption in contradiction to the whole history of the war.

But, sir, there is another method of reaching the effect of this rebellion on these States and their governments. The overthrow of these State governments results as well from the action of the States themselves. I am not speaking now of ordinances of secession; nor of nullification; I am now speaking of changes of constitution and laws during the rebellion by which these States were made to conform to the "confederate States." I pass that all by. I agree with the honorable Senator from Maryland that they are all null, inoperative, and void; I attach not the slightest importance to their effect. If they effected nothing, did rebellion effect nothing? If the ordinances of secession, as a legal and technical proposition, were null and void, does it follow that the taking up of arms was null and void? Does it follow that when ten States broke into rebellion and armed for war and made war practically and marched armies against the national forces, sacked our cities, and beleaguered the national capital, these are not facts of some significance as bearing upon the rights of these States?

What is a State government? It consists of constitution, in the first place, which is the organic law. That constitution upon the American plan provides for three departments of government, which are the terms of the constitution. Then it is a complex machinery, consisting of, first, the organic law, and second, the departments. Either one may be called the State, but both together properly constitute the government of the State. How was this organism of the State affected by this war? Let us see. In order to have a State government, organized through the several departments, executive, legislative, and judicial, certain things are necessary. There must be officers, the persons who are to execute the functions of the State as provided in the organic law. How are they to be qualified? When may they begin to exercise any of those functions to put themselves in harmony with the Government of the United States? As the Constitution of the United States provides, when they have taken an oath to support the Constitution of the United States, and not before. The oath prescribed by the Constitution of the United States is the ligament which binds these States to the Union; it is as the soul in the body that

animates the State; it is the very breath of life, without which there is no State vitality and no possibility of State organization. Is not that true? Will anybody deny that proposition? When the oath is gone, what becomes of the organization? It goes with it, of course; the ligament is broken, the breath of life departs, the vitality is gone. Now, did not these people renounce the oath? Did they not abjure the jurisdiction of the United States? Did they not defy it, deny its authority, and so abdicate power? Everybody must concede that. Then the organization of the State was gone, and it was gone by renunciation, abjuration, abdication; so that, taking South Carolina for illustration, as she led the way to armed rebellion, there was not, in 1862, any officer in the whole State under oath to support the Constitution of the United States. All had abjured, all had renounced, and the effect was disorganization of its government, absolute and entire. That condition of things remained until the close of the rebellion, so that at the close of the rebellion there was no officer and of course no function in that State. The State organization was dead; its officers had broken away from their allegiance, it had become foresworn, and it could perform no act of State authority whatever.

At the close of the war what was the condition of the State? Disorganized; disorganized by its own act; disorganized by the abjuration of every officer who could perform a function. How could it be reanimated? On the theory of my argument they had lost all their rights; they had been engaged in war, and had been overthrown; they had been treated as a public enemy, and had been conquered, and had lost all civil and political rights, and were in a state of absolute disability. There was not only no officer in South Carolina to perform the functions of office, but there were no persons in South Carolina who were eligible to office. How, then, was government to be revived? The people, just defeated as a public enemy, could not do it; they were under the disabilities of a public enemy—in a state of total political and civil disability. Some sovereign power, some power outside of themselves, must relieve them from this disability, and give them permission to reorganize those governments. But, sir, I have not yet come to that part of the argument; I am simply showing, attempting to show, the disorganization of these State governments.

But one step further: while these State organizations were thus disorganized and lost, their institutions and laws were overthrown, so that South Carolina, which went into the rebellion in 1860 a "slave State," came out a free State. How? By the change in her fundamental law; and how was that effected? Not by her own act directly, but by the incidents and events of war. By her act of war on the Government she had given the Government of the United States the authority to wage war, and making war the Government found

it necessary to change her constitution and to emancipate her slaves. Nay, further, it found it necessary by an amendment in the Constitution of the United States, to provide for a total inhibition of slavery in any of the States. Then, sir, during the war, by the action of the Government of the United States, the constitution of South Carolina became subverted altogether; her slave code and the great body of her laws were subverted, overthrown by the supreme power of the Government in the exercise of its great war functions during the exigencies of civil war.

In this view what becomes of all this talk about these States having "brought their State governments" through the blood and carnage of the war? According to the argument of the Senator from Indiana everything else seems to have perished; there was general desolation throughout the South; cities were sacked and burnt; hundreds of thousands of the southern people perished; poverty, misery, distress, general anarchy and disorder everywhere prevailed; nothing remained perfect and undisturbed but the myth of State constitutions; "the rights and the privileges, the immunities and the dignity" of the rebel States triumphed over all, and came out of the great ordeal of battle unscathed and untouched! And honorable Senators bow reverently and obsequiously before the shade of departed slavery as if it were a real entity, had a bodily existence, and we were legislating in its presence and in deference to its supposed kingship.

State rights, sir, were annihilated by the march of the armies of the United States, which conquered and subdued everywhere, and also by the infatuation and madness of their people in making war on a Government the most beneficent on earth, against which they had never made any well-grounded or just complaint. During the war they were public enemies, and at the surrender were in a state of total civil disability and could exercise no function of Government whatever; their constitutions and institutions were subverted and revolutionized, and they must be touched by a power outside of them and which lay only in the sovereignty of the Government of the United States, before they could be reorganized or vitalized, or put in harmonious relations with the Government of the United States.

These notions of the effects of the war on these States are not novel. I am saying nothing new, and surely nothing unusual in the Senate. Those who took the ground that the nation had a remedy in war knew in the beginning that these would be its results. They knew that it would be attended with the utter overthrow of State governments, the utter annihilation of slavery and all its interests. They anticipated that, contemplated it, and, so far as its introduction into this Chamber is concerned, it was not original with this side of the House; it originated with the Opposition. The honorable Senator from Kentucky, [Mr.

DAVIS,] far-seeing, indefatigable, philosophic in his speculations upon history and upon current events, saw it the first ten days after he entered this Chamber in 1861, and proposed to provide for it. He saw that the war cloud which was then overhanging the nation and threatening to involve every part of it in war—fearful, fratricidal, general war—would be attended with the results of war; that it would give the nation rights of war; that it would inflict upon the enemy forfeitures and disabilities of war; and he would provide for that state of things, and I proclaim him here and now to the nation as the great originator and inventor of the whole theory of the results which we are providing for in our policy of reconstruction. He was the great inventor of the term, now become historic, "Reconstruction." He saw at a glance on entering these Chambers how this thing must be dealt with; that the people of the rebellious States must be treated as enemies; that we must hold against them the rights of a public enemy; that we must deal with them as enemies, and we must insist that the results of victory should be the entire overthrow both of their institutions and their constitutions, and that the remedy of the nation would be in the end the right to "reconstruct," the right to readjust the parts to the nation. When the war was over and institutions and constitutions subverted, the governments no more, the then honorable Senator from Kentucky foresaw that it would be the duty and the necessity of the Government of the United States to reorganize and reconstruct. To show that I am right let me refer to the record.

I hold in my hand a bill introduced by the honorable Senator from Kentucky on the 30th of December, 1861, entitled "A bill declaring certain persons to be alien enemies, forfeiting their property to the United States, creating a lien on said property in favor of loyal persons to indemnify them for such damages as they may have sustained by the existing war of rebellion." I need not read it in detail. It will be found that it contemplated the exercise of authority and power far beyond any exercised by the Congress of the United States since. It covered the whole question. It assumed the absolute supremacy of the nation. It was based on the theory that the nation was at war; that it had public enemies; that our former fellow-citizens were these enemies; that the contest was to be prosecuted as a war and with the results of war. By this bill the honorable Senator, in advance, declared the rebels to be "alien enemies." Not a few of the leaders; but the provision was sweeping—every person who should participate at all, directly or indirectly, in this war was to be regarded as an "alien enemy." What was to be the consequence of this declaration? Forfeiture of all rights, civil and political. That was sagacious—that was profound even, because it met the exigency, stated the theory and the policy of coming events. It took most of us a long time to reach that conclusion; but

the honorable Senator saw it in advance and would provide for it.

But that is not all. Here are resolutions introduced by the Senator about the same time. The bill was introduced on the 30th of December, 1861. On the 13th of February following the Senator introduced a series of resolutions, in which he undertook to embody the principles of the war, the principles which underlay it, the power of the Government, and the liabilities of those who opposed it.

Mr. DAVIS. Will the honorable Senator permit me to make a suggestion?

Mr. MORRILL, of Maine. Certainly.

Mr. DAVIS. I will ask the honorable Senator to do me the justice and the courtesy to have those resolutions read by the Clerk.

Mr. MORRILL, of Maine. At the present time?

Mr. DAVIS. Yes, sir.

Mr. MORRILL, of Maine. Certainly; I shall be glad to oblige the Senator.

Mr. DAVIS. I have no objection to the bill being read, too.

Mr. MORRILL, of Maine. I do not care about having the bill read now. It is pretty long, but I send the resolutions to the desk, and ask that they be read.

The Secretary read the following resolutions, submitted by Mr. DAVIS on the 13th of February, 1862:

"1. *Resolved*, That the Constitution of the United States is the fundamental law of the Government, and the powers established and granted, and as parted out and vested by it, the limitations and restrictions which it imposes upon the legislative, executive, and judicial departments, and the States, and the rights, privileges, and liberties which it assures to the people of the United States and the States respectively, are fixed, permanent, and immutable through all the phases of peace and war, until changed by the power and in the mode prescribed by the Constitution itself; and they cannot be abrogated, restricted, enlarged, or differently apportioned or vested by any other power, or in any other mode.

"2. *Resolved*, That between the Government and the citizen the obligation of protection and obedience form mutual rights and obligations; and to enable every citizen to perform his obligations of obedience and loyalty to the Government it should give him reasonable protection and security in such performance; and when the Government fails in that respect, for it to hold the citizen to be criminal in not performing his duties of loyalty and obedience would be unjust, inhuman, and an outrage upon this age of Christian civilization.

"3. *Resolved*, That if any powers of the Constitution or Government of the United States, or of the States, or any rights, privileges, immunities, and liberties of the people of the United States, or the States, are, or may hereafter be, suspended by the existence of this war, or by any promulgation of martial law, or by the suspension of the writ of *habeas corpus* immediately upon the termination of the war such powers, rights, privileges, immunities, and liberties would be resumed, and would have force and effect as though they had not been suspended.

"4. *Resolved*, That the duty of Congress to guaranty to every State a republican form of government, to protect each of them against invasion, and on the application of the Legislature or executive thereof against domestic violence, and to enforce the authority, Constitution, and laws of the United States in all the States, are constitutional obligations which abide all times and circumstances.

"5. *Resolved*, That no State can, by any vote of secession, or by rebellion against the authority, Constitu-

tion, and laws of the United States, or by any other act, abdicate her rights or obligations under that Constitution or those laws, or absolve her people from their obedience to them, or the United States from their obligation to guaranty to such State a republican form of government, and to protect her people by causing the due enforcement within her territories of the authority, Constitution, and laws of the United States.

"6. *Resolved*, That there cannot be any forfeiture or confiscation of the rights of persons or property of any citizen of the United States who is loyal and obedient to the authority, Constitution, and laws thereof, or of any person whatsoever, unless for acts which the law has previously declared to be criminal, and for the punishment of which it has provided such forfeiture or confiscation.

"7. *Resolved*, That it is the duty of the United States to subdue and punish the existing rebellion by force of arms and civil trials in the shortest practicable time, and with the least cost to the people, but so decisively and thoroughly as to impress upon the present and future generations as a great truth that rebellion, except for grievous oppression of Government, will bring upon the rebels incomparably more of evil than obedience to the Constitution and the laws.

"8. *Resolved*, That the United States Government should march their armies into all the insurgent States, and promptly put down the military power which they have arrayed against it, and give protection and security to the loyal men thereof, to enable them to reconstruct their legitimate State governments, and bring them and the people back to the Union and to obedience and duty under the Constitution and the laws of the United States, bearing the sword in one hand and the olive branch in the other, and while inflicting on the guilty leaders condign and exemplary punishment, granting amnesty and oblivion to the comparatively innocent masses; and if the people of any State cannot, or will not, reconstruct their State government and return to loyalty and duty, Congress should provide a government for such State as a Territory of the United States, securing to the people thereof their appropriate constitutional rights."

Mr. DAVIS. I will say to the honorable Senator that I adhere to every principle and every position in those resolutions, and I have done so throughout the war.

Mr. MORRILL, of Maine. I am more than delighted to hear that, because I shall soon expect the honorable Senator to range himself on our side. [Laughter.]

Mr. DAVIS. I shall show you where I stand in a day or two. [Laughter.]

Mr. MORRILL, of Maine. My purpose was in part to compliment the Senator for his intuitive sense of the rights of the Government and for his elaboration of those rights in the form of a statement so early as 1862, and to give him the full credit of having been the originator of congressional reconstruction. Precisely the state of things which he contemplated in these resolutions came to pass. He then said to the rebels: if you resist my admonition, if you continue fighting, if you bring on general war, if you put yourselves in the attitude of public enemies, not only pains and penalties shall come to you, not only forfeiture of property and of civil and political rights, but when the great destruction of State constitutions, when the day of subversion comes, then the nation will interpose and it will be the duty, nay, the necessity, of the nation, to interpose. to do what? to "reconstruct," readjust the disordered parts, reconstruct State constitutions in harmony with the changed state of things produced by the

war. That is what the honorable Senator then foresaw, and that, by the blessing of God, is what we are now trying to do. He saw with clear vision what the results would be if they continued in their resistance to the Government until the Government was obliged to exercise its supreme authority of war, so that it should destroy slavery, State institutions, constitutions, Governments, and general disorder should ensue. Then, under the constitutional provision which guaranties to the people of each State a republican government, it would be the duty of the Government of the United States—not of the President, but of the United States—to step in and restore them. How? By restoring the old State governments? No such thing was contemplated, no such thing was dreamed of, but to restore order by an adjustment of the parts, adjusting the nation to its changed condition by reconstruction.

Let me read one of these resolutions again. The Senator will excuse the satisfaction I take in this early part of his labors here. My special interest centers in the last resolution. My admiration of it is unbounded. [Laughter.] I have kept it by me constantly, and have admonished the honorable Senator from time to time, as I thought he needed, that his record was against his present position, that he was doing violence in these latter days to his former good works and ways, that his early record was sound, logical, and right, but that his speeches of late, for some reason or other, were doing great violence to it. Now let me read the emphatic parts of the last resolution:

"That the United States Government should march their armies into all the insurgent States and promptly put down the military power which they have arrayed against it, and give protection and security to the loyal men thereof."

Give protection to "the loyal men," carry the sword to the rebels, the olive branch for the loyal men. That is what we are doing now.

Mr. SUMNER. And the phrase is "loyal men," without distinction of color. [Laughter.]

Mr. MORRILL, of Maine. I did not notice that, but of course "all loyal" men, of necessity, includes the colored men.

Mr. SUMNER. Of course. [Laughter.]

Mr. MORRILL, of Maine. And the resolution proceeds:

"Give protection and security to the loyal men thereof."

To what end are you to give security to the loyal men?

"To enable them to reconstruct"—
That is it. There is the word—

"to reconstruct their legitimate State governments."
Now, what if they do not do it?

"And if the people of any State cannot, or will not, reconstruct their State government and return to loyalty and duty, Congress should provide a government for such State as a Territory of the United States."

It was never proposed to treat them absolutely as Territories on this side of the Chamber. I think, after that declaration, it is

hardly worth while for us to speculate about "States in the Union or out of the Union." If as early as 1862 the honorable Senator from Kentucky contemplated that in the progress of events these States would be in the position of territories, when it would be proper for the Congress of the United States to treat them as Territories and give them governments as Territories, I am inclined to think it is hardly worth while for us to quibble on nice points. All I have to regret about this is that while I am disposed to immortalize the Senator from Kentucky in the history of the country, I am afraid it will derogate from the record of my honorable friend from Massachusetts. [Laughter.] I think the general impression is, that the Senator from Massachusetts was the originator of the idea that these States were remitted to territorial rights, and should be treated as Territories.

Mr. DAVIS. If the honorable Senator will allow me I will present him with the resolution of the Senator from Massachusetts, offered about three days before my series, and to which mine was a response. There was not a voice in favor of his except his own when they were offered in the Senate.

Mr. MORRILL, of Maine. He could not have got a patent right for his. [Laughter.]

Mr. DAVIS. Will the honorable Senator allow them to be read?

Mr. MORRILL, of Maine. No; I shall want to look at them. I do not desire to get up any antagonism between the honorable Senator from Kentucky and my friend from Massachusetts. I prefer to leave them to fight it out. [Laughter.]

Mr. DAVIS. I will take a hit or two at you as I go along. [Laughter.]

Mr. MORRILL, of Maine. I understand the honorable Senator from Kentucky to intimate that he is prepared on this point. I receive the intelligence with composure. If the Senator believes, as he professes to, that Congress in its "reconstruction policy" is making war on the Constitution of the United States, it is obvious that his record here places him on the skirmish line, at least.

Enough, Mr. President, and more than enough I am sure, upon this chief point on the great subject under debate: the point which underlies the whole of it, and upon which policies of restoration and reconstruction must rest, is that by the war, through the war, and on account of the war, the southern States lost their State government and with them all the rights of States and all the rights of individuals, and were in the power of the General Government at the close of the war and must look to the General Government for the restoration of their rights, including the rights of government, amnesty for the great crime they had committed during the war, and for the future of their States. If I have demonstrated this proposition there is nothing left for the nation except the policy of Congress, reconstruction, not restoration—"reconstruction" against "restoration."

Now, sir, the only question left on the merits of the case, to which I shall barely refer, not to argue it, not even to state it, is whether Congress has performed its duty wisely and well; whether the reconstruction policy embraced in the several acts now before Congress, and those which have antedated them, are a wise discharge of the great duty devolving upon the Congress of the United States at the close of the war to reconstruct these States in harmony with the national life? What have we done? I am not to enumerate, but will simply state, the substance of the acts under consideration.

First, our military bill, so much denounced as establishing military despotism, is simply an interposition of a police force to preserve order and the agency by which reconstruction is to be consummated. I defy the ingenuity of Senators to make it either more or less in its provisions, or in its purposes.

Mr. President, I desire briefly to advert to the position taken in the debate by Senators on the other side of the Chamber. I begin with the Senator from Maryland. For his record on reconstruction I have little but approbation. I have the highest consideration for his character, his talents, his patriotism, and his public services. I could not say less to do justice to my own feelings and my own sense of the public record of that Senator. I understand that for all practical purposes, and for the highest objects to be obtained by Congress in its policy of reconstruction, the honorable Senator from Maryland stands with Congress—I do not say that of his constitutional and legal opinions, but of that legislative record of the Congress of the United States which will stand out in history as the grandest legislative record in all time—the Senator from Maryland stands peerless and alone on that side of the Chamber.

Now, sir, the reconstruction policy of Congress is a complex policy. It is not embraced simply in the bills to which I have alluded, but it covers the whole period of the war. We began to reconstruct as soon as we began to conquer.

The great measure which will have place in history as the most sublime, not only of this war, but of all time, which is to make this country illustrious among the civilized nations, which gave us success in war at home and honor and credit abroad, was the emancipation proclamation and the anti-slavery amendment to the Constitution of the United States. On that question, I am happy to say, the honorable Senator from Maryland was not only on the side of Congress, but conspicuous. I shall never cease to remember, with the utmost pleasure and delight, the speech, remarkable for its eloquence and power and pathos and dignity, of the Senator on that occasion. I had to thank him for it then, and I am not less grateful now. So on the corner-stone of reconstruction the honorable Senator from Maryland stands with Congress and against

those who voted against the inhibition of slavery, the cause of rebellion in the American States. This was the first step in reconstruction. Here Congress began to put the nation in harmony with the changed state of affairs brought about by the emancipation proclamation of Mr. Lincoln, which had subverted State governments, changed slave States into free States, and necessitated radical reconstruction.

But that is not all. The honorable Senator voted for the civil rights bill, the complement of the anti-slavery amendment of the Constitution—a bill made necessary by the fact of emancipation. He saw, as others did not, that when the slave was emancipated, when the shackles fell from his limbs, when he became a "freedman," he must become a freeman. The President of the United States, whose vision was dim about those days, said he was a "freedman," nothing more; he was of an unprivileged class in our system; he was a serf; he had ceased to be a slave to his old master to become a slave to the State. The Senator from Maryland, rising in his place here in the Senate, maintained his citizenship; according to the logic and the principles of the Constitution there was only one class of persons in this country, the American people, and they were all citizens now. The condition of servitude which was the exception to the general American principle had passed away, and now every native-born person was a citizen, and, being a citizen, he was entitled to all the privileges and protection of a citizen of the United States; and the Senator, leaving his associates, gave his voice and vote to this great bill of rights for the American citizen and against the objections of the President of the United States.

But more; the Senator from Maryland was for suffrage, the crowning act of congressional reconstruction. It did not seem to be so at first, but in the end the great necessity of congressional reconstruction, without which reconstruction in the southern States was impossible under the present state of things, was the ballot. The ballot in the hands of the negro became as much the necessity of reconstruction of republican States and their restoration as the bayonet in his hands was the necessity of the war. I do not mean to say that the honorable Senator from Maryland thought that was so in the beginning. I think he did not. I do not mean to say that he thinks it the most advisable thing possible to be done now; but sinking his constitutional doubts in what he conceived to be the great emergency of the Republic, to reconstruct, he yielded all his opinions, all his constitutional doubts, and gave, not to faction, but to country, to liberty, to human rights, and to the peace and restoration of the country the doubts he might entertain on that subject. For that I honor him.

The clear sense of the Senator from Pennsylvania [Mr. BUCKALEW] enables him to see distinctly enough in this debate that the States lost

their governments; that the State constitutions were subverted; that the war was attended with decisive results; that the nation was victorious, was the conqueror, and had the rights of a conqueror; that our enemies lost all; they went in for the ruin of the nation and lost their rights, many of them their lives. He sees that, and so when I propounded the question to the honorable Senator whether the guarantee of the Constitution applies to the State governments that antedated the rebellion his frank and characteristic reply is, "of course not; they were destroyed." I have no occasion to pursue the honorable Senator's argument after that concession. That brings him in principle on the side of Congress; he stands for reconstruction. If they were destroyed they must be reconstructed. I know that the honorable Senator, from those relations which are common to all of us, feels a little delicacy in avowing it quite as emphatically as I do; and perhaps he will not thank me for doing it. But his principles place him on our side. His opinions bring him with us. He must be respectful to his party relations, and so the honorable Senator says in his speech that he does not exactly approve of what we have done; he rather prefers what Mr. Johnson has done, although he does not undertake to defend it on principle. To the question whether he thought the constitutional guarantee applied to the Johnson organized governments he declined to say that it did. He thought that Mr. Johnson's policy was to be preferred over that of Congress, because Mr. Johnson had allowed the people of those States to organize State governments, and for that reason he was disposed to accept them. If I had the time and he and the Senate the patience to listen, I could show that the premise on which he puts his adhesion to the Johnson policy is fallacious. Mr. Johnson did not allow the States to form these governments. He dictated to these States. He told these States on what conditions and on what conditions alone they might form State governments. He told them who might and who should not exercise the elective franchise, who should and who should not be electors of the convention, and when they were in convention, what they should and what they should not do. Remember that he said that as Commander-in-Chief of the Army; remember he had these communities in his power; remember his military lieutenants were there, and he had declared martial law to be the supreme law of the States. He said to them, "Take these terms and be reconstructed." More, sir, he undertook to say that a portion of the rebels should reorganize those governments, while a majority of the people, the loyal people in some of those States, were utterly excluded from all participation in the government. If that commends his policy to the Senator from Pennsylvania, while he is with Congress in principle, all I can say is that he must follow the President on a policy that ignores his principles.

I now turn to the Senator from Wisconsin,

[Mr. DOOLITTLE.] That Senator agrees with Congress in principle that the rebellion destroyed the States; that at the close of the rebellion there were no State governments in existence; that they needed reconstruction, must be reconstructed; but he contends that Congress is concluded from any participation in it, because the President of the United States has assumed jurisdiction and Congress is estopped. I do not propose to argue this point, because it has been better done by others than I could hope to do. The Constitution, I believe, provides that if States are to be reconstructed or guaranteed, "the United States" are to do it. By what logic the Senator understands that the President of the United States is "the United States," when by the Constitution he is only one coordinate branch of three, he has not told the Senate in his late speech, and I do not know that he ever has.

I pass to other considerations upon which the Senator took his departure from the congressional policy and joined himself to that of the President of the United States.

Mr. DOOLITTLE. I do not desire to interrupt the Senator—

Mr. MORRILL, of Maine. It is no interruption.

Mr. DOOLITTLE. But I wish simply to state that, as regards the view which I entertained in relation to the effect of the rebellion upon the States of the South, I discussed that question at considerable length in January, 1865, and stated my views on that subject. I refer the honorable Senator to my speech at that time. In my speech of the other day I did not go into a discussion of the effect of the rebellion upon the States, their governments or constitutions. I was discussing more the question of the true policy of reconstruction to be pursued by Congress.

Mr. MORRILL, of Maine. So I understood, and therefore I do not address myself to that part of the Senator's speech, but was about to proceed to the question of policy to which he objects.

On the question of emancipation the Senator was sound. He went for the proclamation of emancipation. On the question of the anti-slavery amendment of the Constitution the honorable Senator stood by Congress and congressional reconstruction. Here, I am sorry to say, he stopped. He had freed the slave, and, in the spirited language of the President of the United States, he proposed to let him take care of himself. Mr. Johnson had organized these States. He had put the old slave-masters exclusively in power. They had enacted vagrant laws to take possession of the negro bodily. The courts of the slave States were closed against the negro. There was no course of administration of justice in all the southern States for the negro. The Senator knew that. He knew that under the laws of the southern States there was no such thing as protection to person or property or redress for grievance for colored men, no courts in which

the negro could be permitted to tell the truth in vindication of his own rights, and that the heel of oppression was on the neck of the former slave. He was held to be a "freedman," belonged to a subordinate and inferior race, and that his status was a question exclusively belonging to the States.

Under these circumstances, the Congress of the United States introduced a bill to protect him in his civil rights; a bill which assumed that, having freed him, we are bound to protect him; a bill which in equity and good conscience I think the world approves. Not to have done it would have been infamy in the American Congress. To free him and leave him to the domination and tyranny and oppression of the old master would have been a cruelty. This is what that bill contemplated; and when we came to that the honorable Senator voted no. What is the justification for that? Has the honorable Senator ever explained it? Is it explainable? Is the denial of protection to an American citizen explainable in law, in equity, or in good conscience? Sir, it would have been a shame to the nation and it would have become a by-word and a hissing in the general judgment of the nations of the earth if it had failed to vindicate its authority and its sense of justice. Here the honorable Senator breaks away from congressional reconstruction and stands on the message of the President of the United States, who says it is no concern of Congress what becomes of the negro; he is an inferior man, as if that was an argument justifying oppression.

Mr. DOOLITTLE. As the honorable Senator is not stating my position—

Mr. MORRILL, of Maine. No; I am stating what the President said.

Mr. DOOLITTLE. The honorable Senator referred to me.

Mr. MORRILL, of Maine. I am stating what the President said, and what the Senator indorsed by his vote.

Mr. DOOLITTLE. If the honorable Senator will allow me, I simply desire to say in relation to that matter, that I did not maintain that no duty was imposed on this Government under the constitutional amendment to secure the freedom and the rights of the negro; and I introduced a bill on that subject myself into the Senate, which I have no doubt was constitutional. On the other hand, I have never doubted that certain clauses in the civil rights bill were unconstitutional, and therefore I voted against it.

Mr. MORRILL, of Maine. Of course. The point is known; the honorable Senator voted against it. That is my argument. The civil rights bill shows for itself. It was protection to the freedmen. It was in its preamble the sublimest declaration in legislation in this country or any other, as I remember it. It commenced with a declaration which I am happy to say found a response in the argument of the Senator from Maryland, "that every native-born person is an American citizen." I repeat

it is the sublimest declaration in all history. Up to that hour such a declaration by the American Congress were a legal impossibility; but old things had passed away in the progress of the events of the war, it had acquired the authority, and it embraced the first opportunity to announce it.

But the Senator has another difficulty about the reconstruction policy. He is afraid of the effects of negro suffrage on the "Caucasian." The Caucasian, he says, is the superior of all human type. The Caucasian is the historic man. He is lord on this continent. He is the "man on horseback" who has a right to dominate all other classes. Sir, I doubt whether, in a nation that gathers its population from all the tribes and nations and kindreds and families of men this doctrine will gain the popular favor. How many "Caucasians" of pure blood are there here? We have gathered our population from all the nations of the earth—Celts, Moors, Spaniards, &c.—and it is supposed there are some Anglo-Saxons. I never saw one; but there may be some of the pure blood. In such a nation as this it is supposed that under our principles of government some one who is whiter than another has a right to rule all the rest; and, in the instance of the Senator, it is the Caucasian. It has been suggested to me that if the Circassian were here the Caucasian would have a competitor and a rival. The Circassian thinks he is the better man altogether. I tell the Senator if one of the finest specimens of the Circassian were here he might find a rival in beauty and form and grace which I am afraid the ladies might prefer. [Laughter.]

But, Mr. President, this idea of race in the Government of the United States is an absurdity. There is no such thing. Is there any race or color in the Declaration of Independence? Is there any race or color in the Constitution of the United States? Was there any race or color in the American constitutions of the several States which were formed during the revolutionary era? One sublime doctrine underlay the whole of them—equal rights to all, except as to the condition of servitude, and all freemen stood upon the platform of equality before the law.

Then, Mr. President, I must notice, also, that the Senator has another—what with great respect to him I must denominate—political infirmity. He has an apprehension which controls his political conduct, his policy as a statesman, an American Senator; an apprehension of "the antagonism of races." It is the burden of his speech—a frightful antagonism of races, to be brought about by what? By putting the ballot into the hands of the negro. What is he going to do with it? Beat out the brains of the Caucasian? [Laughter.] Dominate over him? Rule him, with all his intellectual and numerical superiority? About half a million of blacks will have the ballot, and that half million are going to dominate the American people, thirty-five million in number, and rule them!

The Senator would put the Senate of the United States in the bad eminence of saying that we have overthrown the Constitution of the United States in "order" to inaugurate negro domination. Now, I want to know if he believes that? Is not that a vagary of an excited imagination? Is that an American sentiment? Is it logic? Is it sense? Is it history? Is it anything recognized among sensible men anywhere as a basis of legislation? We are to legislate on an apprehension, and the apprehension explained is, that half a million of negroes, if they are allowed to vote in a particular locality, will dominate the land. This is really the position of the Senator in his recent speech. It will never be believed by posterity, of course; at least I hope not; but it is in the speech; and Congress is arraigned by that Senator and the speech is published and sent out to the nation to prove that we are overturning this Constitution—that is our purpose, that is our intent, that is what we mean, and in this way—"to put the negro in power."

Mr. FESSENDEN. By the bayonet.

Mr. MORRILL, of Maine. Yes; by the bayonet. I forgot that. We mean to do it by the bayonet. The Senator is so frightened out of all sense of propriety that he rises in the Senate and says he trembles for his country; the Caucasians are to be subjugated. Now, sir, is there any such antagonism anywhere in the races as the Senator supposes? If there is, will the honorable Senator be good enough to tell us whether it is an inherent principle in man; whether the Almighty Maker of heaven and earth, the Parent of all of us, implanted in our innermost being a principle of destruction so that it should come to pass that whenever we came in contact we would fall upon each other like beasts of prey?

The honorable Senator very properly, but very frequently, appeals to his conscience and to the principles of Christianity as inculcated by Him "who spake as never man spake." That is all well; but does this antagonism of race harmonize with the doctrine of Christianity? If I remember anything about the doctrine of Christianity, that which underlies the whole system, that which is itself the gospel of good tidings to man, it ignores the "antagonism" of humanity, treats it as a mean, low prejudice, to be put away, and proclaims: "God has made of one blood all the families of men to dwell upon the face of the earth." Nay more; it inculcates the brotherhood of the race. It preaches the good tidings that men are brothers; that the inherent tendencies of their being is love and good will; that if they were properly indoctrinated by the sublime doctrines of the Gospel they would fraternize; that it is only heathenism that hates; it is only the narrow and mean prejudices of men. Talk about the antagonism of the races!

Sir, I commend the honorable Senator to his Bible, to his closet, to meditation, and to prayer to be relieved from the unworthy preju-

dice of the "antagonism of races," which does not exist, which is rank infidelity. Legislate on an apprehension and keep the negro in bondage! Why? Because if you let him go at large, he will fly in the face of the white race, and then comes destruction! Who will get hurt? He is afraid the negro. The negro is willing to take his chance. I confess to a willingness to see the experiment tried—all parties having fair play. [Laughter.]

But these notions of the honorable Senator are disclosed in many ways. It is not new, not peculiar to this case. We had this question in another shape early in 1862 on the emancipation of the slaves in the District of Columbia. The Senator was exercised with the same apprehension then; and it showed itself in an amendment that these negroes must be deported if they were freed. Why? "There would be murders in the streets of Washington, vagrancy, disorder."

Mr. DOOLITTLE. The honorable Senator will allow me to state that it was another Senator who moved the amendment to the bill that those who were emancipated must be deported, and I moved an amendment to the amendment that none should be deported unless they were willing to go.

Mr. MORRILL, of Maine. The Senator voted for deportation.

Mr. DOOLITTLE. Of those who were willing to go; not for their deportation unless they were willing.

Mr. MORRILL, of Maine. Does the Senator suppose his qualification changes the principle of which I have been speaking? If the negro cannot stay with safety he ought to go. Why the necessity of his deportation? Because it is not safe for him to be here. Then he ought to go, whether he is willing or not. That is the answer to that argument. But I remember the honorable Senator's argument on that occasion very well. It was to show the inferiority of the negro; that he could not live in the presence of the white man; that he was perishing, dying out, and had better be carried out of the country. The honorable Senator has many times repeated it here since the war, that his belief was that two million of them, I think—a very large proportion of them, at any rate—had perished during the war.

Mr. DOOLITTLE. That is true.

Mr. MORRILL, of Maine. Nothing further from the truth. The records of the Freedmen's Bureau show that they have not decreased, and there is a very good reason for it. They stayed at home out of danger, to a very great extent, owing to the circumstances under which the war was conducted. But that is not to the purpose further than to show how unfounded is this apprehension under which the Senator labors, which controls his action and his votes here, and binds him to the policy of the President of the United States.

I have a few words of reply to the honorable Senator from Indiana, [Mr. HENDRICKS.] He very properly opposes congressional recon-

struction on the opinion he entertains. He believes in the "abiding rights of the States." He believes with that famous body of men which convened at Philadelphia in 1866 to enforce the policy of the President, and who were touched even to tears, it is said, by the thought that the day when all "white" men were to be of one mind politically and of their way of thinking, would become affectionate and kind to each other, was fast dawning. They resolved that the rights of the States were "abiding rights;" that they existed in the beginning, during the whole war, and at its conclusion. Having thus resolved they proceeded, in a qualified way, to indorse President Johnson, whose policy was based upon exactly the reverse of that doctrine. I have always supposed that if that convention had acted at all consistent with their opinions they would have recommended the President to Congress for impeachment; but neither they nor the President made a point of the principles of either. The President, the late rebels, the anti-war Democrats, had an issue of reconstruction of rebel States with Congress and with the great Union party of the war; and being agreed in the purpose of getting into power again in the nation, what were principles to them in such an emergency?

The Senator stands on the doctrine which he enunciates that the State governments, through the war, lost no rights; that they "brought all their constitutions with them through the conflict." But the Senator indorses the policy of the President. In this the Senator will allow me to say that I think he is not consistent with himself. I propose by the exhibit in open court of his record and that of the President to force him to the abandonment of his position or to renounce his principles. Whether he will come to our side or not I do not know; but that is a matter of which he must judge. It may be the Senator will take the side of his Democratic friends in the South, who would rather have military despotism than reconstruction under Congress.

The Senator assumes that the policy of President Johnson was based upon the recognition of the existence of the State governments. If that is so, the Senator is right in supporting it. If it is not so, he will agree with me that there is no foundation for his faith. In the first place, it should be observed that the Senator undertakes, for support, to connect the policy of Mr. Lincoln with the policy of President Johnson. He says the two are identical; and that Mr. Johnson inherited this policy from President Lincoln; that they were both founded upon the idea that the States had not lost their organizations; and both based upon the policy of restoring the old State governments. Let us see how that is. The first act on record, as I remember, of President Lincoln on this subject was his proclamation of the 8th of December, 1863, in which he proposes organization for the States, as he supposed, in the military possession of the armies of the United States. In this

proclamation, in which he introduced the subject of the condition of these States, is this language:

"Whereas a rebellion now exists whereby the loyal State governments of several States have for a long time been"—

What?

"subverted."

Subverted, overthrown, destroyed. That is the Lincoln policy, flat and square. And further, in some directions to the military authorities with regard to resuscitating these States, he uses this language:

"And being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others, shall"—

What? Be restored? "No."

"shall reestablish a State government."

But a more significant fact still is this, that in 1865, just before the death of President Lincoln, at the surrender of Lee, the rebel authorities of the State of Virginia, "all having come through the war," according to the Senator, their organizations all complete. Legal States, all ready for readmission, restored to the Union by the surrender of Lee, undertook to exercise State authority. The President issued his order repudiating their action. He denied their authority, and held that all their powers were lost in the rebellion.

But the honorable Senator thinks he finds plenary proof, which concludes Congress. To use his own words, "Congress is concluded on this question." Congress in 1864, just before the adjournment of the session of that year, passed a bill for provisional governments, sometimes called the Winter Davis bill, which provided for the reconstruction of these States, and the honorable Senator tells us that President Lincoln did what would seem to be quite an unseemly thing; that he was so determined that Congress should not interfere with his prerogative that he "flung the bill" defiantly in the face of Congress, as much as to say, "Attend to your own affairs; I am the United States; I claim the exclusive right to reconstruct or reorganize these States; Congress has nothing to do with it; I defy Congress." I denounce Congress, would be the implication fairly from the language of the Senator. "It is none of your concern whatever; it is my business; and in due time I will restore, as I am restoring, the States." Now, what was the fact? President Lincoln did not "sign that bill." Why? "It was sent to him only an hour before the adjournment." He had had an idea that some of these States might be brought in in another way; he had "experimental" organizations in Louisiana and in Arkansas, and was embarrassed on that account. How were those governments organized? Were the old State governments recognized? No, sir; Louisiana was organized on the basis of one tenth of her population, with a new government in all respects, and that government was organized at New Orleans while the rebels were carrying on

their "old State government" in two thirds of the entire territory of that State. And yet the Senator from Indiana rises here and tells the Senate that we are concluded on this question; that President Lincoln had intended to restore "the old State governments." The President, in words altogether decorous, as was his wont, said to Congress, that while he could not, without embarrassment, sign the bill, that he had no objection to the policy, and in the future would observe it.

Mr. HENDRICKS. Will the Senator allow me to ask him one question?

Mr. MORRILL, of Maine. Yes, sir.

Mr. HENDRICKS. I wish to know if President Lincoln, in that proclamation, while he referred to the case of Louisiana and Arkansas, did not expressly say that he was unprepared by a formal approval of that bill to be inflexibly committed to any single plan of restoration; and did he not in the same proclamation say that he was pleased well enough with the plan suggested by Congress, but that he would not be bound to it as a law would bind him; but that, if the people went on with the work of the restoration of their States, the Executive would recognize the governments made by them, and would guaranty them in their republican form?

Mr. MORRILL, of Maine. I think he said something to that effect; but that is not the point to which I am adverting. He said he did not wish to be bound to any definite plan for all the States; but he did say, in so many words, as the Senator will find, that he had no objection to this plan, and would observe it in the future, not for all the States, because he had two States he meant to except. He always intended to restore, if it were practicable on his plan, the States of Louisiana and Arkansas. He felt committed to it. He felt that his faith was involved in it, although they were based on a principle anti-American and anti-republican, which never could have been recognized by an American Congress, that one tenth of the voters should organize a State. Still the President was attached to it, and that was the principal reason for his dissent from that bill.

But it is said now for President Johnson's policy that it is identical with that of Mr. Lincoln. If it is, then, it is not in harmony with the opinions of the honorable Senator on the record, and so not entitled to his support. The first act of Mr. Johnson's Administration upon the point after he came into power is a significant one, and is conclusive, I think, on the point raised by the honorable Senator. I think Lee surrendered before President Johnson was sworn into office, and General Johnston surrendered a short time afterward.

Mr. CONKLING. On the 18th of April, 1865, and President Lincoln was killed on the 14th.

Mr. MORRILL, of Maine. The country knows that on the surrender of General Johnston a proposition was made by which all the southern States, in the language of the Sen-

ator, were to be recognized as having brought through blood and peril of civil war their constitutions and State governments, and they were to be offered as a living sacrifice on the altar of the Constitution of the United States, and to be introduced into the Union with all their rights, privileges, and dignity unimpaired, as the phrase is. Did the President assent to it? He issued an order repudiating it absolutely, declaring that it was a proposition not to be entertained, not to be considered. Sir, does that look like recognizing and restoring these "old State governments?"

But the proclamation which the honorable Senator has quoted from and commented upon, and which he asserts binds President Johnson to the policy of guarantying the old State governments, is most important to my purpose. I will read what the honorable Senator said, so that I may do him no injustice:

"In the first place, I will state that he directed each of the departments to extend its operations into the southern States."

There is a recognition, says the honorable Senator.

"Then he goes on with the work of providing for restoration; and what propositions does he lay down? First, he recognizes the old State government of North Carolina, just as he had done in Tennessee, just as Congress did in admitting Tennessee, with the recitals in the preamble; for, after appointing a provisional governor and giving him instructions, he says"—

Here is the proof—

"A convention composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others, for the purpose of altering or amending the constitution thereof."

He quotes further, as follows:

"And with authority to exercise within the limits of said State all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said State to its constitutional relations to the Federal Government."

And there it stops. There he makes a period. That is the full sentence. That is the complete expression of the President of the United States, as the honorable Senator quotes it to the Senate, and as he intends it shall go to the country to prove his position. Now, what is the whole of it?

"And with authority to exercise within the limits of said State all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said State to its constitutional relations to the Federal Government, and to present"—

Here is the point—

"and to present such a republican form of State government as will entitle the State to the guarantee of the United States therefor, and its people to protection by the United States against invasion, insurrection, and domestic violence."

There the sentence ends. The Senator finds it convenient to sustain his argument to divide the sentence, to break off in the middle of the sentence; so that where he makes it end it means one thing, and where it does end it means another and quite the reverse. Where it does end it means the reconstruction of a republican government. Of course, the Sen-

ator did not see that it had that effect. He quoted it altogether inadvertently, I am bound to believe. The Senator, of course, in the hurry of the discussion, under the impulses of the moment, intent on proving his point, quoted enough to prove the point, and forgot, omitted, overlooked, did not see the significance or relation of the rest of the sentence.

Mr. HENDRICKS. Will the Senator allow me one moment?

Mr. MORRILL, of Maine. Certainly.

Mr. HENDRICKS. I do not choose to accept the defense made by the Senator for me. I understood exactly what I was saying. The point that I was making was this, as the Senator has stated: that, notwithstanding the contradictory statement in the preamble in that proclamation, in the body of the bill, if I may so express it, the President authorized the provisional governor to call a convention, and that convention to amend the constitution. My argument was, that if the President did not recognize the old constitution as an existing thing it could not be amended; that the doctrine that the State government had gone out of existence and that the constitution had ceased as a law would have required the President to call for a convention to make a State government; but that when the President proposed an amendment to the State constitution he recognized that instrument as an existing thing. Therefore I think that my quotation for the purpose of establishing that proposition was full, ample, and complete, and that the residue of the sentence does not interfere with the logic of the position I assumed.

Mr. MORRILL, of Maine. My point was to show the Senator that the President of the United States did not recognize the existing State governments.

Mr. HENDRICKS. That is your proposition.

Mr. MORRILL, of Maine. And that the quotation of the Senator, ending where it did, seemed to prove that he did; and ending where it really ends, repels that inference. I think whoever reads the speech and sees the comments which the Senator makes upon it will find that he is impaled exactly on that last clause, which he did not quote. Of course I attribute nothing except what is honorable to him. I relieve him of all embarrassment of intention on this subject; but in the way he quotes it, he will allow me to say, it bears a false light to the Senate and the country; it is tampering with the witness in open court; it makes him say what he did not intend to say. That is the way it stands, and I leave the Senator to his explanation.

If it were necessary to press that argument further, conclusive refutation of his proposition may be found in the proclamations and speeches of President Johnson. Of course he is supposed to know all about President Johnson's position on this subject, whether he believed the States came through the civil war or not. Since he has become in some sense, some

very important sense, his champion and defender on this floor, he is supposed to be conversant with his opinions and sentiments on this subject. He says, in "the first place," that the President of the United States "recognizes the old State government of North Carolina as existing." Let us see what he does recognize. This, mind you, sir, is a proclamation addressed to the people of North Carolina with the view of reorganizing their State government. What does he say of its condition? Of course he must have had in his mind when he issued his proclamation the condition of the State—whether it was a State government to be recognized or whether it was a State government to be reorganized and reestablished. Among the "whereases" setting out the general condition of affairs, among other things attributable to the war, he says:

"And whereas the rebellion, which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has in its revolutionary progress"

The Senator did not notice that word "revolutionary," I greatly fear. "In its revolutionary progress" it had done what? Revolutionized, of course, subverted, overthrown. "In its revolutionary progress" what has it done? "Brought the old State governments through the war," says the Senator; but the President says it has "deprived the people of the State of North Carolina of all civil government." Did he use that language unwittingly? The Senator says it is a preamble. Well, the preamble is a recital of facts. That is the object of a preamble. It is put in to give solemnity to the event, to bring the subject matter distinctly before the body that is to act upon it. The President says that in the revolutionary progress of events the rebellion has destroyed all civil government in North Carolina, every vestige of it; there is nothing left. Did he make a mistake about that? Let us see. I find in the report of the Committee on Reconstruction language used by Mr. Johnson, in speaking of the effects of the rebellion, to Mr. Stearns:

"The State institutions are prostrated, laid on the ground"—

"Come through?" What must be done with them?

"And they must be taken up"—

And what then?

"And adapted to the progress of events."

What does that mean? To restore the old State governments? No, sir; but they must be reorganized and reestablished and reconstructed and put in harmony with the revolutionary progress of events. That is what he said. I should like to hear the Senator explain the meaning of those words.

Mr. HENDRICKS. What do you read from? Mr. MORRILL, of Maine. I am reading from the report of the Reconstruction Commit-

tee. They found that to have been a fact and reported it to the Senate.

Now, Mr. President, I am done with the honorable Senator from Indiana. My only object was to satisfy him that his adhesion to the policy of the President of the United States was upon a mistaken state of facts altogether, a misconception of his principles, and that he is at perfect liberty to abandon his policy; and I submit to him whether he is not in duty bound to abandon his policy, now that he sees that it is absolutely inconsistent and incompatible with the principles which he avows and maintains; that the surrender of Lee was the restoration of the Union; that these States were entitled by that surrender to be recognized by the Government of the United States with all their rights, privileges, and dignity unimpaired.

A single reflection and I shall relieve the patience of the Senate. Senators on that side of the Chamber all close with a solemn prediction that reconstruction by Congress would prove a failure. If it fails it is to fail for what? Because it is not in harmony with the principles of our institutions? Because it is repugnant to the principles of American liberty? Because it is not consonant with the principles of justice? Because it is likely to be oppressive to any class of the community? Is it obnoxious to any of these suggestions? Does any Senator rise here and say that this policy is an absolute injustice to any class of men? It is said, sir, that it outlaws certain rebels. No, sir; to assert that is to talk inaccurately; it outlaws nobody. It enfranchises everybody except the guiltiest of the guilty. Their war on the Union disfranchised the people of these States. Their war on the Government of the country they were bound to honor, to love, and maintain "outlawed" them. They lost all their rights by rebellion and civil war. We have magnanimously enfranchised all but the few leaders steeped in guilt. We enact no bills of pains and penalties, decree no forfeitures. We restore them to all their rights of person and property. We give them their rights as American citizens to the fullest extent. We are willing to forgive the masses of the people; but as to those men who committed the unpardonable political sin of having sworn to support the Constitution of the United States and then conspired against it, made causeless war upon it, they may not again be intrusted with power. Other nations in other times would have hung, drawn, and quartered these men or driven them from the country. Davis even is abroad, fêted, feasted in northern cities. A great and magnanimous people can endure these things, but cannot agree to confide offices of trust and power to men who have once betrayed it, unless it would consent to have secession, insurrection, and civil war reënacted. These men regret nothing but their defeat.

One significant fact stands confessed, that the Johnson States are neither in form or in effect republican States; that those States dis-

qualify and hold in a state of total civil and political disability an entire class of citizens of the United States. In some of the States a majority of the citizens of the State within their limits, men declared to be citizens by the Constitution of the United States, are utterly disfranchised and denied all civil rights. Is that a republican State according to the formula of American States? Is that a republican State in essence and in effect according to the American principle? I deny it. Whatever assumption violates the rights of any one of the humblest of American citizens impairs or imperils the rights of all.

I have to say to my honorable friend from Maryland that I have very strong reasons to suspect that the State which he represents will be found to fall in the category of anti-republican States. Of course I venture no opinion on that subject, not now before the Senate; but I am so thoroughly impressed with its anti-republican character that I take this occasion to say that it is not easy for me to understand how that State can lay claim to be republican either in form or in fact. She enfranchised all her citizens in 1865, I think, when her constitution was changed to conform to the Constitution of the United States. Last year it was made to disfranchise all those people who had been theretofore enfranchised. She has, by her constitution, reduced to practical vassalage and excluded from the privileges of citizenship common to the American citizen one fifth of her entire population, and all citizens of the United States. I repeat, sir, is that a republican State which disfranchises so large a portion of her citizen population?

And that is not the worst of it; as is suggested by my honorable friend from California, [Mr. CONNESS,] it is hardly to be denied they have done that in order to give the disloyal element in that State the absolute supremacy. It bears rule there to-day. That element which would have overthrown this Government with pleasure and delight during the war is in

power in Maryland to-day. Her militia officered to some extent by those who served in the rebel army during the rebellion. She sends to her Legislature those who are in sympathy with rebels, and who served in the rebel ranks and with the rebel forces. Nay, sir, she would send to this Hall men who deserted their trusts rather than support the Government of the United States, if she could. There is no more conclusive evidence to my mind of her absolute disloyalty in fact and in purpose than the fact that the honorable Senator from Maryland, who patriotically stood by the country during the war, standing for the Government always, receives but a single vote in the Legislature, while those who would not serve the Government, those who sympathized with the rebellion, are asking admission to this Chamber, under her authority and as her choice.

Nay, sir; from what I see announced in the public journals, and not denied, she has given full evidence of the anti-republican and anti-American spirit that animates her. In all the bills of rights that preceded the constitutions of the several American States inaugurated during the Revolutionary era, you will find the great American doctrine which was most conspicuous in the Declaration of Independence, which underlies the Constitution, set forth as the prominent and fundamental doctrine on which American communities and American institutions were to rest, that "all men are created equal." That was the doctrine of the Declaration of Independence and was copied into the bills of rights of all the States. It was in the bill of rights of Maryland. Where is it now? Expunged from the declaration of rights; and in what spirit? The spirit of disloyalty to the sentiments of the Declaration of Independence and the American Constitution: the spirit that is anti-American; the spirit that is anti-republican—such a spirit cannot fail to brand her as an anti-republican State, an anti-American State not worthy of the companionship and sisterhood of American States.