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# The Relation of Thaddeus Stevens to Reconstruction, 1865-1868

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THE RELATION OF THADDEUS STEVENS TO RECONSTRUCTION

1865-1868

by

MILDRED BRYANT-JONES

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## PREFACE

Several factors influenced the choice of this subject. An interest in the reconstruction period of American history was first aroused when, as a child, I found in the attic, grandfather's small horse-hair trunk, filled to the top with Confederate money. Later, a descendant of Robert Treat Paine, who had known Thaddeus Stevens personally, expressed, in my presence, the hope that some day more would be known of the service which Stevens rendered to the country. A brief, unexpected visit to Lancaster, Pennsylvania, where Stevens lived so long, afforded new interest in his activities. Finally, having taught fifteen years in the Wendell Phillips High School and having thought often of the friendship and similarity of ideas of Phillips and Stevens, I decided to ascertain, as far as possible, Stevens' actual relation to reconstruction during the three years of most violent changes.

The dearth of biographical material, the evident bias of most of the historians of the period, and the general rancor and vindictiveness of the writers of historical fiction relating to the time, have made the task a difficult one. Throughout the search for material and for facts, I have endeavored to admit neither sympathy nor undue admiration of accomplishment and to confine this thesis to an account based on reputable sources. If my degree of success has attended the undertaking, it is chiefly because of the guidance in historical thought and procedure so generously given by Dr.

Paul Kiniery and Father Joseph Roubik, who have opened for me a vista of enjoyment and an avenue of opportunity for usefulness.

Mildred Bryant-Jones

Chicago, August 1935

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**THE RELATION OF THADDEUS STEVIENS TO RECONSTRUCTION**

**1865-1868**

**CHAPTER I. STEVENS' POLITICAL STATUS, 1865.**

Attitude and views concerning so-called seceded states -- Presidential reconstruction procedure -- Congressional prerogatives -- The Freedman -- Leader of Radicals -- Chief Colleagues -- Limitation of presidential power -- Extension of Congressional power -- Punishment of rebels -- Civil and political equality for Freedmen -- Financial safety of Union.



## CHAPTER I

### STEVENS' POLITICAL STATUS, 1865

The period of the Civil War and Reconstruction is considered one of the most interesting and important in American history, and has probably been productive of more inquiry and historical writing than any other. Thaddeus Stevens was the dominant figure during this period and has been called the most masterful leader ever known in the House of Representatives. Under him, the House was not ruled by a system that created a one-man official power; instead, leadership was the result of his force and energy of mind and will and the strength of the cause he represented.<sup>1</sup> The House was free to act; consequently, Stevens, though the acknowledged leader, was frequently frustrated in accomplishing his ends. If Stevens merits being designated as the most masterful leader ever known in the House, it is well to know something of his expressed ideas and views, and of his actions concerning the political questions of his time. A study of his relation to the period of reconstruction during which such vital amendments to the Constitution were made, is important to a correct understanding.

Thaddeus Stevens was born in Vermont in 1792. He entered actively into political life when he was forty-one years of age. He is described as being by nature one of the type of politician who seize one idea and exploit it so consistently as to win a reputation. It is said that he seldom appeared in any other role than that of an advocate who was determined to destroy

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<sup>1</sup> James A. Woodburn, The Life of Thaddeus Stevens (Indianapolis, 1913), II.

some established order which was tending to meet with disapproval of the public.<sup>2</sup> He was always a friend of the Negro; was unalterably opposed to slavery, and determined in his efforts to secure equality for the Freedman.<sup>3</sup> In fact, before the emancipation of the slaves, he gratuitously helped many of them. Many slaves gained freedom as a result of his shrewdness. When legal means failed, Stevens sometimes paid ransom from his own purse.<sup>4</sup> Before emancipation, when defenders of slavery argued that the slaves were better off than the laboring Negroes in the North; and that many freed slaves had voluntarily returned to bondage, Stevens' reply was that if that were so, it would be well to let the slaves who chose, go free and the free who chose, become slaves, for if the argument advanced in favor of slavery were to any extent true, slave holders need never fear that they would lack bondsmen.<sup>5</sup> Stevens' avowed purpose was the equality of all men; supplementing Jefferson's "all men are created equal," he insisted that "born equal, men continue so before the law."<sup>6</sup>

There can be no doubt that Stevens was a man of partisan and uncompromising disposition, ever ready to fight when the interest of his party or cause seemed to demand such fighting partisanship. He lived in a period when party lines were sharply drawn and political opponents were also likely to be enemies in personal relations -- a situation which often resulted in unseemly political conduct.<sup>7</sup> One writer describes Stevens as "fierce, vin-

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<sup>2</sup> Benjamin B. Kendrick, The Journal of the Joint Committee on Reconstruction (New York, 1914), 156.

<sup>3</sup> Ibid., 151.

<sup>4</sup> Samuel W. McCall, Thaddeus Stevens, Statesman, (New York, 1899), 26.

<sup>5</sup> Woodburn, 105.

<sup>6</sup> McCall, 162.

<sup>7</sup> Woodburn, 38.

dictive and unscrupulous," bitter in speech, and possessing in a supreme degree the faculty of making his opposers appear ridiculous; of having "a countenance of iron and the tongue of Voltaire"; and, as has been noted before, of being a party leader, and the dictator of the nation.<sup>8</sup> McCall affirms that Stevens was unquestionably the leader of the House from July 4, 1861, when it assembled at the call of Lincoln until his (Stevens') death in 1868; thus stating that he had occupied that important position for four years preceding the period discussed in this paper. Further, McCall expresses the opinion that the legislative work of the entire period of Stevens' leadership has never been equalled in difficulty and importance in the history of Congress or, indeed, of any parliamentary body in the world.<sup>9</sup>

Historians of the time have usually referred to Stevens' views on money and finance as errors and vagaries. Orthodox writers on finance expressed themselves similarly.<sup>10</sup> He was chairman of the committee on Ways and Means during the Civil War, and, afterwards, of the Committee on Appropriations and Reconstruction. He was thus especially identified with the financial measures of the war, with the great amendments to the Constitution, and with the impeachment of Andrew Johnson.<sup>11</sup>

Thaddeus Stevens was seventy-three years old when the 39th Congress opened in 1865. A writer in the Independent, June 14, 1866, said:

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<sup>8</sup> Robert W. Winston, Andrew Johnson, Plebeian and Patriot (New York, 1928), 312.

<sup>9</sup> McCall, 11.

<sup>10</sup> McCall, 111.

<sup>11</sup> McCall, 111.

"His spirit is not bated, his sarcasm cuts as keenly as ever, his wit flashes as brightly, and his great intellect seems in no wise dimmed. . . Thaddeus Stevens' inevitable sarcasm and wit seem purely intellectual gifts."<sup>12</sup>

The problem of reconstruction was a very complex and delicate one, and had to be met in the midst of the disasters and bitter feeling resulting from the war. There were several distinct factors to be considered. In the first place, the reorganization of Southern state governments was necessary; secondly, the restoration of the seceded states, with their new governments, to their proper relation to the Union had to be arranged; and, in the third place, a decision had to be reached as to what should be the status of two classes of people -- those who had engaged in the rebellion against the Union, and the emancipated Negroes.<sup>13</sup> The conflicts and differences of opinion that resulted from efforts to meet these questions, form the major part of the struggle which was at its height during the period from 1865 to 1868, inclusive. The strife between the legislature and executive branches of the government was bitter and prolonged.

Stevens held the belief that when a state of war was admitted, every obligation which had previously existed between the government and the rebellious states was abrogated. He deplored the diversity of ideas and opinions concerning the status of the seceded states, and urged upon Congress the importance of a clear, logical theory concerning the subject. He felt that the idea of considering the rebel states as still being in the Union was entirely erroneous; and regarded a decision between this view and

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<sup>12</sup> Kendrick, 167.

<sup>13</sup> Woodburn, 327.

his own view that those states were conquered provinces, as being of the utmost importance to the future of the country.<sup>14</sup> He argued that the law of the nations alone could limit the conqueror in determining the conditions which should form the basis of a restored Union.<sup>15</sup> Thoroughly dissatisfied with the mixture of military and civil procedure which had marked Lincoln's work, he was firm in the determination that neither statehood should be satisfied with the conditions imposed and the guarantees required. If Lincoln's procedure were to be judged from the view point of his being a military conqueror, Stevens had no serious objections; but if judged from the view point of his status as a civil ruler, as President of the United States, there were serious objections.<sup>16</sup> Johnson made known his plan of reconstruction six weeks after his inauguration. Since it was very similar to Lincoln's plan, Stevens' objections were unchanged. Johnson denied to thirteen classes the privileges of the proclamation, as against seven classes in Lincoln's proclamation; and Johnson's terms were more severe. In regard to the exempted classes, special application for pardon was to be made in each case.<sup>17</sup> Stevens felt that only on the basis of his own doctrine of reconstruction under congressional authority, would any plan be carried out. On December 18, 1865, he delivered a speech in Congress, in which he summarized his opinions on reconstruction and stated the essential reasons why Congress, under his leadership, refused to adopt the reconstruc-

<sup>14</sup> Ibid., 304; Kendrick, 163.

<sup>15</sup> Woodburn, 305.

<sup>16</sup> Ibid., 305.

<sup>17</sup> McCall, 247.

tion policy of President Johnson.<sup>18</sup> He said the first duty of Congress was to declare the condition of the seceded states and fix a government for them; Congress alone had the power to make the conditions under which they could be restored.<sup>19</sup>

Stevens had decided plans for confiscation, and considered it an important part of the plan for reconstructing the South.<sup>20</sup> In the spring of 1865, he made a speech in the House of Representatives and another one in Lancaster, Pennsylvania on September 8, 1865, in which he expressed the opinion that the property of the Confederate leaders should be seized and applied to the payment of the war debt and to the pensioning of the Union soldiers. He considered this as a belligerent right of a nation in war.<sup>21</sup> He proposed to confiscate only the estates of those whose lands exceeded two hundred acres or were worth \$10,000.<sup>22</sup> After giving forty acres to each adult Freedman, the remaining acreage -- worth approximately \$3,540,000,000. -- was to be disposed of as follows: \$300,000,000 should be invested in six per cent government bonds and the semi-annual interest added to the pension of war veterans and their dependents, \$200,000,000 should be used to reimburse loyal men in the North and South for property damages suffered during the war: and with remaining \$3,340,000,000, the debt should be paid.<sup>23</sup> He maintained, moreover, that President Johnson, himself, favored confiscation

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<sup>18</sup>Congressional Globe, 1st sess., 39th Cong., 72-75.

<sup>19</sup>Kendrick, 165.

<sup>20</sup>Ibid., 167.

<sup>21</sup>Woodburn, 521, 530.

<sup>22</sup>Ibid., 523.

<sup>23</sup>Globe, 72-75; Woodburn, 525, 526; Kendrick, 166, 167.

when he was in his right mind.<sup>24</sup>

Thaddeus Stevens was always an uncompromising advocate of equality for all men before the law and claimed never to have been guilty of despising a man because he was black.<sup>25</sup> He believed in democracy both in politics and industry. Aside from his personal desire for justice toward the Freedman, he was convinced that the government should extend a helping hand to the free but defenseless black man. In December, 1865, he said:

"We have turned or about to turn loose four million slaves without a hut to shelter them or a cent in their pockets. The infernal laws of slavery have prevented them from acquiring an education, understanding the commonest laws of contract, or of managing the ordinary business of life. This Congress is bound to provide for them until they can take care of themselves. If we do not furnish them with homesteads, and hedge them around with protective laws; if we leave them to the legislation of their late masters, we had better have left them in bondage. . ."<sup>26</sup>

Kendrick defines the term radical, as used in connection with persons identified with reconstruction measures, to mean those who desired such reconstruction procedure as would perpetuate the Republican party in the control of the national government.<sup>27</sup> Stevens was indeed a radical, and the Republicans in the House followed him from the beginning of the struggle over the reconstruction until the President's influence was practically nullified. Probably one of the principal sources of Stevens' power as a leader was his ability as a debater and his skillful use of partisan tactics. Nearly every new measure which the government had adopted during the course

<sup>24</sup> W. E. B. DuBois, Black Reconstruction (New York, 1935), 90.

<sup>25</sup> Woodburn, 610.

<sup>26</sup> DuBois, 90.

<sup>27</sup> Kendrick, footnote, 137.

of the war had been previously advocated by Stevens. This may be seen in his opposition to compromise with slave power; emancipation of the slaves as a war measure; arming the Negroes and placing them in the United States army.<sup>28</sup> It should not then be a source of wonder that when measures which he advocated had proved popular, he was considered the natural leader of his party. After he secured the appointment of the Joint Committee of the Fifteen on Reconstruction, in December, 1865, he was not only leader of the House, he was its dictator and leader of his party throughout the country.<sup>29</sup> In Harpers Weekly, January 6, 1866, an observer wrote that Thaddeus Stevens had the courage of his convictions; understood that reconstruction must be sure rather than swift; and stated clearly the steps which he considered essential for the desired end. The Washington correspondent of the Nation termed him: "the inexorable Thaddeus Stevens who holds the business of the House in the hollow of his hand."<sup>30</sup>

Among Stevens' colleagues, Charles Sumner, Senator from Massachusetts, was considered the most important. Classed together, probably because of a mutual belief that the emancipated Negroes deserved equality of opportunity with all other American citizens, they are referred to as "iron-willed, imperious men" who "were, for two years, virtual dictators of the political scene."<sup>31</sup> Haynes, in his biography of Sumner, states that "with Sumner's aid, Stevens was an ideal leader in the cause of the Negro." He further

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<sup>28</sup> Ibid., 169.

<sup>29</sup> Ibid., 168; McCall, 1.

<sup>30</sup> Kendrick, 168.

<sup>31</sup> Arthur M. Schlesinger, Political and Social History of the United States, VI, 1866-1872 (New York, 1932), 108.



claims that they aimed to abolish all racial prejudices and distinctions.<sup>32</sup> Asserting that Stevens and Sumner thought nothing wrong or unconstitutional which advocated the cause of freedom, Winston attributes to Sumner the statement that the men of the South who had served in the Confederate army, but in whose hands Andrew Johnson was willing to risk the affairs of the nation, were "not so far changed as to be fit associates."<sup>33</sup> Sumner was an idealist who maintained that the Freedmen were entitled to the ballot as an inherent human right.<sup>34</sup> In this, and in other matters, he contended always, for exactly and wholly what he wanted. Stevens, on the other hand, was a practical legislator; though he would never surrender a principle which he considered vital to justice,<sup>35</sup> if he could not at once get all he wanted, he took what he could get, and kept working for more -- thus giving evidence of his practical statesmanship. Stevens and others of his colleagues agreed with Sumner that suffrage was a right of the Negro; but they also perceived that the Negro vote was necessary in order to counteract increased representation from the seceded states, because abolition had rendered inoperative the constitutional provision for counting only three fifths of the slaves in the apportionment.<sup>36</sup>

Roscoe Conkling, Representative from New York, differed from Stevens in the matters of finance, but he was a protégé and favorite of Stevens, and,

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<sup>32</sup> Winston, 311. In a footnote, Winston quotes Haynes' Sumner, 317.

<sup>33</sup> Ibid., 320.

<sup>34</sup> Schlesinger, 236.

<sup>35</sup> Woodburn, 397.

<sup>36</sup> Schlesinger, 236.

during the early period of his career, generally followed his lead in the matters pertaining to the South. When Conkling entered the 39th Congress in 1865, Stevens secured him a place on the Joint Committee of Fifteen. Conkling won a reputation as an orator during his first four years in the House, and, with the exception of Stevens, whom Kendrick claims was "head and shoulders above any other member," was classed with Garfield, Blaine, and Bingham as one of the ablest four men on the committee.<sup>37</sup> A review of Conkling's life would not, however, lead one to think of him as being, like Stevens, the friend of the oppressed.<sup>38</sup>

Representative George S. Boutwell, of Massachusetts, though not a colleague of Stevens in the same sense as was Charles Sumner, must, however, be recognized as an extreme radical who vigorously advocated Stevens' policies. He directed earnest efforts toward securing suffrage for the Freedmen and toward disfranchising the rebels. Boutwell was a professional politician, dependent upon political office for a livelihood and, therefore, interested chiefly in maintaining the power of the party.<sup>39</sup>

Wendell Phillips of Massachusetts, like Stevens and Sumner, advocated emancipation and opposed compromise in the battle for justice to Negroes. It is said of him that when President Johnson failed to advocate full social and political freedom for the Negro, Phillips delivered a scathing lecture which he called "The South Victorious." Declaring that slavery was being re-established by Congress and, if the President succeeded, "he should write

<sup>37</sup> Kendrick, 186.

<sup>38</sup> Ibid., 187.

<sup>39</sup> Ibid., 188.

his name higher than Burr or Arnold," Phillips refused to accept an invitation to go to Washington. He said bluntly that he preferred not to "breathe the same air with them."<sup>40</sup> On April 30, 1866 Phillips wrote to Stevens protesting against any compromise, and urging him to prevent the Republican party from deserting its post; if that were not possible, he asked that "the practical statesmen of the nation be true to their duty"; and assured him that, with leaders, the people would "open no door which does not admit all races."<sup>41</sup>

Thaddeus Stevens contended that the President possessed no power to create new states, to dictate laws fixing the qualifications of voters, as to determine that states are republican; the President was merely to execute the laws issued to him through Congress, which represented the people; though he was Commander-in-Chief, Congress was his commander; Congress possessed all power other than executive and judicial.<sup>42</sup> Though the seceded states had complied with the President's demands, adopted the thirteenth amendment, repealed secession ordinances, and abolished war debts, Stevens argued that they were not to come into the Union until Congress gave consent.<sup>43</sup> On December 18, 1865 when Stevens proposed an amendment in which representation should be based according to voters instead of population, and one giving the national government the right to levy export duties in order that cotton should be properly taxed, he insisted that these amendments should not be

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<sup>40</sup> Winston, 315.

<sup>41</sup> Woodburn, 347.

<sup>42</sup> Ibid., 447.

<sup>43</sup> Winston, 317.

submitted to the so-called governments in the southern states, as "they were merely governments under duress"; and that Congress should without delay, declare and assume its power over the whole subject of reconstruction.<sup>44</sup>

As a matter of punishment, Stevens recommended that the conquered states should be forced to pay at least a part of the damages and expenses of the war, and to indemnify those who had suffered through raids committed by rebels. He insisted that treason should receive adequate punishment but not the death penalty; and that loyal men be appointed guardians over the seceded states.<sup>45</sup> Suffrage should be extended to the Negro in every seceded state, Stevens urged. He said that if it were just, it should not be denied; if necessary, it should be adopted; and if it were a punishment to traitors, they deserved it.<sup>46</sup> His original desire was that suffrage should be carried gradually by the consent of the southern states, and that it should be accompanied by education. Woodburn comments that the temper and resistance of the South are responsible for the act of enfranchisement being brought by national power.<sup>47</sup> Maintaining that "every human being who possesses an immortal soul," has equal right to justice, honesty and fair play with every other man, Stevens asserted the obligation of Congress to make a law to secure those rights; the same law which acquits one man of an offense, should operate similarly in the case of any man on the same basis of facts.<sup>48</sup>

The financial safety of the Union was a subject of much concern to

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<sup>44</sup> Globe, 1st sess., 39th Cong., 72-75; Kendrick, 166.

<sup>45</sup> Woodburn, 447.

<sup>46</sup> Ibid., 448.

<sup>47</sup> Ibid., 487.

<sup>48</sup> Ibid., 449.

Thaddeus Stevens. The prosperity which the country enjoyed at the close of the Civil War had been preceded by a period of loss, stagnation in trade, lowering of wages, suspension of business enterprises, and great financial distress. Stevens had contributed to the discussions and opinions relative to the financial situation of the country. He was a greenbacker and, though he did not live long enough to be a member of that party, he had announced principles that underlay its formation and progress.<sup>49</sup> He had made notable efforts to deliver the government from what he termed gold bondage during the war, and believed that the restoration of gold money to its former use did not depend upon contracting and destroying the currency produced during the war, but upon the growth of the country, expansion of trade, and a larger use of paper currency. This would tend to bring the greenback to a parity with gold, and would result in gold, silver, and paper currency circulating together.<sup>50</sup> Thaddeus Stevens was a strong advocate and contender for repudiation of the Confederate debt. His policy concerning the war debt of the United States was to offer twenty year bonds whose principal was to be paid in coin, while the interest was to be paid in legal tender. He hoped that at the end of twenty years, the country would again be on a specie basis, because of its growth in population and trade. His objections to payment of the interest in coin were based on the assumption that it established competition between the government and the merchants in competition and put them both in the power of banks and brokers.<sup>51</sup> Boutwell's proposal to con-

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<sup>49</sup> Ibid., 537.

<sup>50</sup> Ibid., 538.

<sup>51</sup> Ibid., 553.

tinue to pay the war debt in gold, shocked Stevens, who contended that such a policy must end in disaster.<sup>52</sup> The capitalistic press loudly denounced Stevens' policy as "a greenback confiscation and wholesale act of repudiation." However, the Philadelphia Press published an article in September 12, 1865, which quoted Mr. Forney, who knew Stevens well, as saying that he knew no man in all the land who hated repudiation more than Thaddeus Stevens; and that "there was a time in Pennsylvania when he fought against that crime and crushed it with his Titanic blows."<sup>53</sup>

Though untrained for special money problems, Stevens put up a strong fight on the financial issues that he was forced to meet. He was defeated in the policies he sought to have adopted, but the ideas that he accepted and advocated have not disappeared. Going straight to the root of the question, he announced principles which were subversive of the gold standard and the moneyed interests. Nothing shook his belief in a uniform national currency; in issuance of bills of credit by the general government alone; that the government had the constitutional power to issue money made of any material it chose; that except for convenience, material does not matter. He claimed that the volume of money should be regulated by the government in the interests of producers and workers rather than by combinations of capitalists who controlled the gold of the world in the interests of the moneyed classes.<sup>54</sup> Stevens' views of money did not receive much public support in his day, but long afterward they have been accepted by millions of citizens in the United States.

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<sup>52</sup> Ibid., 557.

<sup>53</sup> Ibid., 580.

<sup>54</sup> Ibid., 582.

In 1865, Thaddeus Stevens was the acknowledged leader of the radical forces in the House of Representatives and of the nation. His beliefs concerning a method of procedure in regard to the seceded states; the precedence of Congressional over Presidential action in the laws and processes governing reconstruction; and his views relating to the financial safety of Union, were based upon a desire to assist in the necessary organization of the country's working machinery, to promote its interests, and to assure its success as a powerful, independent, united nation, commanding the respect of the world.

**CHAPTER II. STEVENS AND THE JOINT COMMITTEE OF FIFTEEN**

**Origin -- Important members -- Initial movement against the President -- Republican Caucus, December 2, 1865 -- Stevens' resolution passed -- First Civil Rights Amendment.**



## CHAPTER II

### STEVENS AND THE JOINT COMMITTEE OF FIFTEEN

As the end of Lincoln's administration marked the end of the war, so the beginning of Johnson's, ushered in reconstruction. The two men had similar ideas concerning reconstruction. When the Southern Confederacy collapsed in April, 1865, those state governments which had been in allegiance to it were not recognized as legal by any Federal official.<sup>1</sup> They were forbidden to continue in existence, and, for a few weeks, seven of them were without civil governments and were subject to Federal authority alone. In Virginia, Tennessee, Louisiana, and Arkansas, loyal governments had been instituted during Lincoln's Administration. Johnson recognized those state organizations as regular, and appointed provisional governors in the states where no such organizations existed. At the direction of the President, each of the provisional governors called a convention for the purpose of erecting a permanent government in harmony with that of the United States.<sup>2</sup> To the convention which assembled, Johnson did not give definite instructions, but let it be understood that the executive department of the Federal Government left the franchise in the hands of the whites. The conventions were to comply with three conditions: the ratification of the thirteenth amendment, the repudiation of the war debts, and a declaration that the ordinances of secession were null and void from the beginning.<sup>3</sup> By the time

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1 Kendrick, 17.

2 Ibid., 134.

3 Ibid., 135.

Congress met on December 4, 1865, most of the conventions had established new state governments, and in some cases, senators and representatives to Congress had been chosen. The President's plan of restoration received the sympathy and support of many people in the North and was endorsed by party conventions, both Democratic and Union in nearly every state. The press, in general, was favorable also, though the New York Tribune, Harpers Weekly, the Nation advocated that Negro suffrage be a fourth condition of readmission of the seceded states.<sup>4</sup> Pronounced opposition to the President's policy came, however, from the radical members of Congress.<sup>5</sup> Most Republicans believed that the Democrats in the South would join forces with Democrats in the North; and that since the Negro was not permitted to vote, all the southern Congressmen would belong to the Democratic party.<sup>6</sup> As there was no consensus as to a substitute for the executive policy, the opposers were determined not to act precipitately, but to delay. Conservative Republicans hoped to come to an understanding with the President: the radicals had the idea of carrying out a thorough overhauling of southern political, economic, and social conditions. Guided by Thaddeus Stevens, the radicals, therefore, determined upon the plan of appointing a joint committee to which all matters pertaining to reconstruction should be referred. Since the carrying out of this plan would involve delay, the conservatives acquiesced in the scheme.<sup>7</sup> "The story of how Stevens forced the majority party in the lower

<sup>4</sup> Ibid., 135.

<sup>5</sup> James Ford Rhodes, History of the United States, 1850-1877, (New York, 1920), VI, 1.

<sup>6</sup> Kendrick, 136.

<sup>7</sup> Ibid., 18.

House to commit themselves against the policy of the President, is the story of the origin of the joint committee on reconstruction."<sup>8</sup> From December, 1865, to March, 1867, the members of this committee determined the principles of reconstruction that were finally carried into effect in the South. The Joint Committee of Fifteen consisted of six senators and nine congressmen. The members were Senators Fessenden, Howard, Harris, Grimes, Johnson, and Williams; and Representatives Stevens, Washburne, Morrill, Gridler, Bingham, Conkling, Boutwell, Blow, and Rogers. Its head was Thaddeus Stevens.<sup>9</sup>

The 39th Congress, which met on December 4, 1865, is considered as next in importance to the 1st Congress, whose task was the organization of the government under the Constitution.<sup>10</sup> The problem of the 39th Congress was the reorganization of the government after the Civil War had greatly altered the institutions of the country. Public interest was keen because of the uncertainty as to what would be the outcome of the question of southern representation. It was generally understood that southern members would not be allowed to take their seats at once, but since there had been no definite action concerning the matter, on the opening day of the session the galleries were filled with people who awaited the action of the House.<sup>11</sup> It is customary for the clerk of the House to preside until a speaker is elected, and before the election takes place, the clerk calls the roll. Edward McPherson, who owed his position to Thaddeus Stevens, was clerk of the House

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<sup>8</sup> Ibid., 137.

<sup>9</sup> Ibid., 38; Winston, 311.

<sup>10</sup> Kendrick, 141.

<sup>11</sup> New York World, December 8, 1865.

when the 39th Congress opened. Acting under orders from Stevens, McPherson omitted the names of the members elect from the seceded states. Protests were unavailing.<sup>12</sup> Immediately after Schuyler Colfax had been elected as speaker, and the House organized, Stevens asked unanimous consent to introduce a resolution which read as follows:

"Be it resolved, by the Senate and House of Representatives in Congress assembled: That a joint Committee of fifteen members shall be appointed, nine of whom shall be members of the House, and six members of the Senate, who shall inquire into the condition of the states which formed the so-called Confederate States of America, and report whether they or any of them, are entitled to be represented in either House of Congress, with leave to report at any time, by bill or otherwise; and until such report shall have been made, and finally acted on by Congress, no member shall be received into either House from any of the so-called Confederate States; and all papers relating to the representation of said States shall be referred to the said Committee without debate."<sup>13</sup>

As unanimous consent was not received, Stevens moved a suspension of the rules, the previous question debate was prevented, and his resolution was passed. In all such test votes, the entire Union party sustained Stevens' efforts and thus every member committed himself against President Johnson's policy.<sup>14</sup> The resolution was a joint and not a concurrent one. This distinction is important because a joint resolution requires the President's signature in order to become effective; while a concurrent one does not. Stevens purposely presented the resolution in such form as to require the President's signature. He appeared anxious to force the issue with the

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<sup>12</sup> Kendrick, 142; Rhodes, V, 544.

<sup>13</sup> Kendrick, 37.

<sup>14</sup> Ibid., 143; Globe, 5 et seq.

President at once, and, had the resolution passed the Senate in the same form as in the House, Johnson must either have signed it and, consequently, have abandoned his own method of reconstruction by agreeing to work with Congress; or have vetoed it, and immediately have precipitated the breach between him and Congress.<sup>15</sup> Kendrick expresses the opinion that it was fortunate for Stevens' scheme of reconstruction that the issue with the President was postponed and was later forced on another question.<sup>16</sup> The conservatism of the Senate caused the postponement. The resolution did not receive unanimous consent for consideration when it came before the Senate on December 5, 1865; and since the previous question has no existence in the Senate, the resolution was postponed until the next day.<sup>17</sup> Despite the protests of Charles Sumner that the matter required immediate attention, a suggestion from Senator Fessenden caused it to be postponed a second time. The Republican members of the Senate held a caucus on December 11 and, by a vote of 16 to 14, changed the resolution to the following form:

"Resolved by the House of Representatives, (the Senate concurring) That a joint committee of fifteen members shall be appointed, nine of whom shall be members of the House and six members of the Senate, who shall inquire into the condition of the States which formed the so-called Confederate States of America, and report whether they, or any of them, are entitled to be represented in either House of Congress, with leave to report at any time, by bill or otherwise."<sup>18</sup>

The amended resolution, as passed in the senate, differed in three ways from the original resolution in the House: first, the resolution was joint in

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<sup>15</sup> Kendrick, 143; New York World, December 7, 1865.

<sup>16</sup> Kendrick, 144.

<sup>17</sup> Globe, 7.

<sup>18</sup> Kendrick, 38.

the House, while in the Senate it was concurrent and did not require the signature of the President; second, the House agreed not to accept members from the southern states until the committee had reported, while the Senate did not decide similarly; third, the House agreed to surrender to the committee the privilege of judging the election returns and qualifications of its members, while the Senate did not so limit its own powers.<sup>19</sup> On motion of Thaddeus Stevens, the House of Representatives concurred in the amendments of the Senate.<sup>20</sup> Senator Jacob Howard voiced the opinion of the fourteen radical members who were in favor of the resolution as it came from the House, and expressed the thought that the country expected Congress to pledge itself not to admit any of the rebel states until after the committee had reported. His speech clearly indicates the acceptance of Stevens' views by his fellow radicals.<sup>21</sup> He said, in part:

"What is the present position and status of the rebel states? In my judgment they are simply conquered communities, subjugated by the arm of the United States -- communities in which the right of self government does not now exist. We hold them. . . not by their own free will or consent, as members of the Union, but solely by virtue of our superior military power. I object to the amendment for the reason that it leaves the implication that one or the other houses of Congress may, whenever it sees fit, readmit senators or representatives from a rebel state without the concurrence of the other house; and I hold it utterly incompetent for the Senate or the House to admit members from the rebel states without the mutual consent of each other."<sup>22</sup>

Senator Doolittle, of Wisconsin, expressed the attitude of the Republicans who opposed the idea of a joint committee. He stated that as far as the

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<sup>19</sup> Ibid., 146.

<sup>20</sup> Ibid., 38.

<sup>21</sup> Ibid., 146.

<sup>22</sup> Globe, 24.

Senate was concerned, the judiciary committee could attend to the matter; but, in the event of a choice between two evils, he preferred the form of a resolution endorsed by the Senate. Doolittle's speech showed plainly that President Johnson and his friends realized that Thaddeus Stevens' resolution and the method used in passing it, meant an attack upon the administration. He asserted that Stevens was "bitterly and uncompromisingly hostile to the policy of the present administration on the subject of reconstruction." He felt that the Senate should not aid Stevens' schemes, since practically every one understood the source and intent of the resolution.<sup>23</sup>

The public evinced keen interest in the passage of the resolution creating a joint committee on reconstruction, in the resulting process of reconstruction, and in the attitude of Congress toward President Johnson's policy. The press regarded the committee as good or bad according to the sufficiency or inefficiency of the guarantees which the President's policy afforded as to the loyalty of the seceded states. The passage of the concurrent resolution by Congress was considered as indicating an intention to demand further conditions precedent to the admission of representatives and senators from those states.<sup>24</sup> The New York World expressed the feelings of the Democrats concerning what they termed an attempt on the part of the radicals to thwart Johnson's restoration plan. It declared:

"They did not wait till the opening of Congress to give that plan the honor of a decent burial under the clerk's table. . . The resolution adopted unanimously by 124 Republican members in their caucus, shows with what promptitude Thaddeus Stevens

<sup>23</sup> Ibid., 26.

<sup>24</sup> Kendrick, 148.

strangled the infant Restoration, stamped upon it with his brutal heel, and proclaimed his plan for keeping the Union disunited.<sup>#25</sup>

The New York Times, edited by Henry J. Raymond -- chairman of the national executive committee of the Union party, professed to see nothing in the appointment of the joint committee which would indicate a breach between Congress and the President. Stevens evidently caused Raymond to believe that the committee was not intended to thwart Johnson, since the Times published the statement that a committee to investigate whether or not the seceded states were entitled to representation, was necessary in order that Congress be properly informed concerning the matter.<sup>26</sup> Raymond realized his misapprehension after the measure had passed the Senate.<sup>27</sup> Though the New York Tribune had supported the reconstruction policy of the President, it had felt that Congress should supplement the conditions which he imposed upon the rebel states. It favored some form of suffrage for Negroes, and felt that Congress could, with more authority, impose this condition upon the seceded states than would the President. It favored the appointment of the joint committee and considered it a body to supplement and not to oppose Johnson's policy.<sup>28</sup> The other New York dailies opposed the appointment of a joint committee, fearing it would act in a partisan manner and delay the settlement of the problems of reconstruction.<sup>29</sup> The Herald was disturbed by the suspicion that Stevens would enlist the help of the committee in carrying

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<sup>25</sup> New York World, December 4, 1865.

<sup>26</sup> New York Times, December 5, 1865.

<sup>27</sup> Kendrick, 149.

<sup>28</sup> New York Tribune, December 5, 1865.

<sup>29</sup> New York Evening Post, December 13, 1865.



out his confiscation plans.<sup>30</sup>

Thaddeus Stevens and William Pitt Fessenden exercised greater influence on the process of reconstruction than any other members of the joint committee.<sup>31</sup> Next in importance were the contributions of Bingham, Conkling, Boutwell, and Reverdy Johnson. Stevens, "the great protagonist of curbing the political power of the South and completely emancipating the Negro, was the prime figure in the committee."<sup>32</sup> He was radical and so was his policy, but the Republican members of the House of Representatives followed him faithfully. Much of Stevens' great influence is attributed to his ability as a debater and his masterly appeals and coercive measures in securing partisan support. His colleagues in the joint committee accepted him wholeheartedly as their leader, even in the face of Presidential disapproval and loss of patronage.<sup>33</sup>

Fessenden was considered an excellent debater and parliamentarian, an authority on many subjects of legislation, and an incorruptible man.<sup>34</sup> He believed that Johnson's attempt to restore the seceded states without consulting Congress was a grave mistake, but at the opening of Congress in December, 1865, he was not one of the group who desired a breach with the President. He feared that such a situation would harm both the Republican party and the country. He was typical of the conservative Republican senators; was unwilling to accept the President's efforts at restoration as

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<sup>30</sup> Kendrick, 183.

<sup>31</sup> Ibid., 183.

<sup>32</sup> DuBois, 97.

<sup>33</sup> Ibid., 98.

<sup>34</sup> Kendrick, 183.

final, and felt that additional guarantees should be exacted from the rebel states; but did not feel that the radicals should control the process of reconstruction.<sup>35</sup> In personal letters, written soon after he was made chairman of the joint committee, he expressed the belief that the President was as anxious as Congress that the insurgent states should make sufficient guarantees before receiving full restoration, and asserted that Johnson manifested no desire to interfere with the proper prerogatives of Congress.<sup>36</sup> On December 24, 1865, he expressed the opinion that if Stevens and Sumner and a few other such men did not embroil the committee with the President, matters could be arranged satisfactorily to the majority of the Union men throughout the country. Later, however, when Johnson opposed proposals designed to safeguard the civil rights of Negroes; when he gave evidence of lack of sympathy with efforts tending to strengthen the national government; and, finally, when he asserted that a Congress in which the seceded states had no representation could not properly legislate for them, Fessenden lost patience with him and abandoned hope for harmony between him and Congress.<sup>37</sup> During the first session of the 39th Congress, Fessenden is reported to have kept the Republican members of the joint committee to a fairly moderate policy of reconstruction.<sup>38</sup> Credit is accorded him for valuable work done in perfecting the fourteenth amendment.<sup>39</sup> In 1868, after the rejection of the amendment by the rebel states, he declared that Congress had done enough toward reconstruction and should take no further action until the people of

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<sup>35</sup> Ibid., 173.

<sup>36</sup> Ibid., 174.

<sup>37</sup> Ibid., 176.

<sup>38</sup> Ibid., 177.

<sup>39</sup> Ibid., 178.

those states sought admission in proper form. He advised against reconstruction acts but did not vote against them, for fear of being read out of the party by the radicals.<sup>40</sup> He did not, however, agree with the Democratic proposal that the work of the radicals should be undone. His idea was that patience and conciliation should be the outstanding characteristics of the men who engaged in the task of reconstruction.<sup>41</sup>

John Bingham's chief contribution to congressional reconstruction was the part of the fourteenth amendment which provides for equality of civil rights for all citizens of the United States. Bingham's attitude toward reconstruction was more like that of Fessenden than of Stevens. Though he was never willing to sacrifice his principles for the sake of harmony, he was anxious to avoid a breach between the President and Congress. During the second session of the 39th Congress, he bitterly denounced the radical Republicans because they abandoned the fourteenth amendment as the basis of congressional reconstruction policy.<sup>42</sup> Finally, however, he voted for the reconstruction bill. Kendrick describes him as "a man of intense nervous force, great intellect, powerful in argument and masterful in speech," but whose personality was such that he was never very popular. He was one of the board of managers for the prosecution of President Johnson and is said to have made one of the best legal arguments of his side of the case.<sup>43</sup>

Roscoe Conkling was a member of the House of Representatives from 1859 to 1863 and from 1865 to 1867. He was a member of the Senate from

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<sup>1</sup> Ibid., 183.

<sup>2</sup> Ibid., 184.

<sup>3</sup> Ibid., 185.

1837 to 1881. During his first four years in the House, he gave evidence of extraordinary powers as an orator and was considered second only to Thaddeus Stevens, who in ability and prominence was far above every other member. Though he differed from Stevens in matter of finance and had voted against the legal tender bill of 1862, he was a favorite and protege of Stevens and usually followed Stevens' lead in matters concerning the South.<sup>44</sup> In 1865 when Conkling entered Congress, Stevens secured him a place on the joint committee. As a member he was particularly helpful in drawing up, defending, and expounding the political theory of that part of the fourteenth amendment which concerns the basis of representation<sup>45</sup> and in perfecting the language of other bills and resolutions considered by the committee. At the time, he did not favor section one of the fourteenth amendment, in which Stevens and Bingham were so deeply interested. Years later, however, when arguing great corporation cases before the Supreme Court, he influenced the Court to decide that the provision of the fourteenth amendment which forbids a state to deny equal rights to any persons within its jurisdiction can be applied to protect corporations from excessive taxation.<sup>46</sup>

George S. Boutwell was radical to the point of being a fanatic. He constantly urged his colleagues to more radical actions and believed that extreme radicalism was the surest means to continue the supremacy of the Republican party. Gideon Welles described him as "an extreme radical,

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<sup>44</sup> Ibid., 186.

<sup>45</sup> Ibid., 187.

<sup>46</sup> Ibid., 187.

substitute of fairness where party is involved."<sup>47</sup> Boutwell is credited with the authorship of the fifteenth amendment and is said to have asserted his belief that unless suffrage were granted the Negro, the United States Government would collapse.<sup>48</sup>

Reverdy Johnson, the most important of the Democratic members of the joint committee, used his influence and vote in the committee in mollifying the measures of the radicals, rather than in hopeless opposition to all of their propositions. In March, 1867, realizing that the radicals were becoming more extreme in their demands, he voted for the Reconstruction bill. He did so because he feared that they would next reduce the southern states to the status of territories.<sup>49</sup>

When the 39th Congress convened in December, 1865, President Johnson was popular with many of the members and had it not been for the leadership of Thaddeus Stevens, there probably would have been no open opposition to his policy of reconstruction.<sup>50</sup> How Stevens forced the majority party to declare themselves against Johnson's policy has been described in the account of the origin of the joint committee on reconstruction. For more than two years Stevens had been strongly advocating that the rebel states be confiscated and the proceeds used to pay the national debt, establish a pension fund, and give forty acres to each Freedman. These plans were set forth both in and out of Congress, and, at the same time, he contended that the seceded states be readmitted only by specific acts of Congress, after

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<sup>47</sup> Ibid., 188. Quoted from Diary of Gideon Welles, vol. iii, 239.

<sup>48</sup> Ibid., 189.

<sup>49</sup> Ibid., 196.

<sup>50</sup> Ibid., 137.

having given evidence of good faith during a period of probation. Until the end of the probationary period, the states were to be kept under either a military or a territorial form of government. Several days before Congress opened, Stevens went to Washington with the intention of forcing his views upon the President, and with the determination that if he were unsuccessful in the attempt, he would secure their adoption by Congress. On Wednesday preceding the opening of the session, Stevens had a long interview with the President. He expressed opposition to Johnson's idea of extending pardon to the rebels; told him that the majority of the Union party in Pennsylvania opposed the Presidential policy of reconstruction; and warned him that he must greatly change his policy if he expected the Union members of Congress to support it. Though Johnson appealed for harmony, he would not promise to make any change in his plans for reconstruction. Two days later, on Friday, December 1, 1865, Stevens and twenty-five or thirty extreme radicals met to decide on a method by which they could concentrate their efforts to obtain Congressional opposition to the President's policy. After telling his colleagues of his interview with Johnson, Stevens expressed the belief that an open breach with the President might be necessary in order to carry out their own plans relative to reconstruction.<sup>51</sup> A canvass of the Senate revealed that its opinion on the matter was rather conservative. Stevens and his colleagues feared that the Senate might admit properly qualified members from the rebel states and thus defeat his program. In an effort to prevent this, he and others planned the creation of

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<sup>51</sup> Ibid., 139.

the joint committee on reconstruction. The radicals, led by Thaddeus Stevens, were determined that Congress should have complete charge of the plans and processes of reconstruction; and though the resolution, which resulted in the appointment of the joint committee, looked innocent enough, it was the initial movement to commit the Union party to opposition to Presidential reconstruction.

When the Republicans met in their regular caucus on Saturday evening, December 2, 1865, all of the radicals were present. J. S. Morrill, an extreme radical from Vermont, was elected chairman of the caucus, and a committee of seven was appointed to consider the method of procedure in regard to representation from the southern states. There were several conservatives on this committee, of which Henry J. Raymond of New York was the most notable. Stevens was made chairman. He offered a resolution which forbade representation from the rebel states except by congressional authority and it was adopted without a dissenting vote.<sup>52</sup> Raymond was a clever politician but he, evidently, did not realize the full significance of the resolution until too late. Politicians usually adhere strictly to agreements and decisions reached in caucus. Kendrick comments: "Stevens not only carried his point but the radical program was put through with the supporters of the President advocating it."<sup>53</sup> In 1865-6, the problem of representation of the Negro population was the particular phase of the Negro question which gave great concern to Republican politicians.<sup>54</sup> Thaddeus Stevens'

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<sup>52</sup> New York World, December 3, 4, 1865; New York Times, December 4, 1865.

<sup>53</sup> Kendrick, 141.

<sup>54</sup> Ibid., 198.

argument was that unless Congress enacted stringent laws on which representation should be based, ruin would befall the Nation and, finally, the re-establishment of slavery would result.<sup>55</sup> Laws discriminating against Negroes and denying them equal civil rights with white people were passed by southern legislatures.<sup>56</sup> Northerners considered such laws unjust.

According to the constitution, the slave states had been permitted representation for three-fifths of their slaves. In 1860 the fifteen slave states had eighteen more representatives than they would have had if this permission had not been obtained. After the slaves were freed, the rule became inoperative, and unless an amendment were made to the Constitution, all of the Negroes would be counted and the representation of the southern states would be entitled to approximately thirty representatives for the Negro population, though no one of them was allowed to vote. One of the first tasks that the joint committee undertook was to readjust the basis of representation.<sup>57</sup>

On the opening day of the 39th Congress, Charles Sumner introduced resolutions in the Senate which, among other things, provided for equality of civil rights for all persons within the United States. On December 5, 1865, Thaddeus Stevens and some of his colleagues submitted to the House propositions to amend the Constitution.<sup>58</sup> It was proposed that representa-

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<sup>55</sup> DuBois, 92.

<sup>56</sup> W. A. Dunning, Reconstruction, Political and Economic, 1865-1897 (New York, 1907), 54.

<sup>57</sup> Kendrick, 198.

<sup>58</sup> Globe, 2.



tion should be apportioned according to the number of legal voters; that none should be considered as legal voters who were not either natural born or naturalized citizens of the United States, of the age of twenty one years; and that Congress should provide for ascertaining the numbers of voters.<sup>59</sup> James G. Blaine and other New Englanders so persistently opposed apportionment according to voters that Stevens abandoned the proposition.<sup>60</sup> On January 9, 1866, Fessenden proposed an amendment which would empower the national government to secure civil rights for all persons in the United States before the rebel would be granted representation in Congress.<sup>61</sup> Thaddeus Stevens, on January 12, 1866, submitted the following proposed amendment, for consideration by the sub-committee which had been appointed by the joint committee on reconstruction:

"All laws, state or national, shall operate impartially and equally on all persons, without regard to race or color"<sup>62</sup>

On January 20, 1866, the joint committee decided on the following form of their proposed amendment:

"Representation and direct taxes shall be apportioned among the several states which may be included within this Union according to their respective numbers, counting the whole of persons in each state, excluding Indians not taxed; provided that whenever the elective franchise shall be denied or abridged in any state on account of race or color, all persons of such race or color shall be excluded from the basis of representation."<sup>63</sup>

Stevens reported the resolution to the House on January 22, 1865 and urged

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59 Ibid., 9, 10.

60 Kendrick, 40.

61 Ibid., 199.

62 Ibid., 46.

63 Ibid., 199.

immediate action on it.<sup>64</sup> He suggested that only two hours be allowed for debate, but this was not agreed to, even by his colleagues. With only one change -- the striking out of the words "and direct taxes" -- it was reported back to the House on January 31 and on that day it was brought back to a vote in the Senate. Sumner declared that it was a compromise of human rights and his efforts caused its defeat in the Senate. Some of the radicals were opposed to the amendment because it acknowledged the existence of a state's right to disfranchise persons because of race or color. They maintained that states possessed no such rights.<sup>65</sup>

On February 3, 1866, by a vote of 7 to 6, the joint committee adopted a resolution that

"Congress shall have power to make the necessary laws to secure citizens of each state all privileges and immunities of citizens in the several states; and to all persons in the several states equal protection in the rights of life, liberty, and property."<sup>66</sup>

Bingham reported the resolution on February 13 but it was not acted upon. Two weeks later, he again brought it to the attention of the committee. After a debate of three days length, the necessary two-thirds for its passage as an amendment was not secured. Again it was postponed, to be considered on the second Tuesday in April. On that day, however, it was not mentioned. Later in another form, it became section one of the fourteenth amendment. The Democrats, and many Republicans also, were opposed to the amendment. Though the Republicans explained their opposition on the basis

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<sup>64</sup> Globe., 351.

<sup>65</sup> Kendrick, 205.

<sup>66</sup> Globe., 1033.

that more time was needed for consideration of the amendment, the consensus of opinion was that they feared its ill effect on the April election in Connecticut.<sup>67</sup>

DuBois asserts that Johnson's insistence on considering himself vested with both executive and legislative powers, and his opposition to the majority of the party in Congress which had elected him, caused the Committee of Fifteen, on motion of Stevens, to be created. He further states that Stevens and his followers proceeded so cleverly and intelligently that when the committee held its last meeting on February 9, 1867, "the goal it had set for itself had been reached in practical and very satisfactory manner."<sup>68</sup>

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<sup>67</sup> New York World, March 3, 1866.

<sup>68</sup> DuBois, 90.

CHAPTER III. REPUBLICAN CONGRESSMEN versus THE PRESIDENT

Radicals oppose Executive -- President vetoes  
Freedmen's Bureau Bill -- Alienation of Con-  
servative element -- Passage of Freedmen's  
Bureau Bill -- Counter attacks of Andres John-  
son and Stevens -- Civil Rights Bill -- Con-  
servatives withdraw support from President.

## CHAPTER III

### REPUBLICAN CONGRESSMEN versus THE PRESIDENT

The two main problems which confronted Congress in December, 1865, were the basis of representation and the status of the Negro.<sup>1</sup> Three men were considered chiefly responsible for the Congressional policy of reconstruction: Andrew Johnson, Thaddeus Stevens, and Charles Sumner. Rhodes asserts that Johnson's obstinacy and bad behavior, Stevens' vindictiveness and parliamentary tyranny, and Sumner's "pertinacity in a misguided humanitarianism" are responsible for the Congressional policy.<sup>2</sup> He further states that though the 39th Congress was an able body of men, they failed to study scientifically the problem of combining in one social organization two "widely different" races.<sup>3</sup>

Congress said in 1865, as it had said in 1864, that a President does not possess authority to admit rebel states into the Union.<sup>4</sup> Concerning the Negro, there was a difference of opinion even among Republicans as to the wisdom of granting him suffrage. There was, however, no difference of opinion among the men of any party as to the necessity of maintaining inviolable his freedom, which had been so dearly bought.<sup>5</sup>

The New York Nation praised the President's plan of reconstruction as follows:

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<sup>1</sup> DuBois, 91; McCall, 245; Winston, 395.

<sup>2</sup> Rhodes, 47.

<sup>3</sup> Ibid., 42.

<sup>4</sup> Winston, 312.

<sup>5</sup> McCall, 249.

"If the President were to commit tomorrow every mistake or sin which his enemies have feared, his plan of reconstruction would still remain the brightest example of humanity, self restraint, and sagacity ever witnessed -- something to which history offers no approach."<sup>6</sup>

On December, 21, 1865, Senator Voorhees offered a resolution praising Johnson's efforts to restore civil government and pledging the Senate to aid and uphold him in his policy. Bingham offered a substitute; but Thaddeus Stevens, objecting to any recognition of Andrew Johnson, asked that the substitute go to his committee. Voorhees' resolution was voted down on January 9 and the House passed Bingham's substitute which, according to Winston, "damned the President with faint praise." The resolution contained the statement "that in the future, as in the past, the President will cooperate with Congress."<sup>7</sup> From this time on, cooperation between Johnson and Congress became very difficult. Radicals in the 39th Congress felt that unless Johnson's powers were limited to the executive branch of the government the Republican party would be defeated by a combination of northern Copperheads and southern rebels and the Negroes would remain virtual slaves. "The bare thought of these things put Thaddeus Stevens and Charles Sumner in a towering passion."<sup>8</sup> Stevens openly declared that the Republican party must control Congress, and southern representatives must be excluded, if the country were to be saved.<sup>9</sup> He accordingly undertook to manouver the Republicans into a solid phalanx. This was a much more difficult task in the Senate than in the radical House.

<sup>6</sup> Winston, 320.

<sup>7</sup> Ibid., 321.

<sup>8</sup> Ibid., 308.

<sup>9</sup> Ibid., 318.

Sumner of Massachusetts, Wade of Ohio, and Howe of Wisconsin led the radical forces in the Senate; while Fessenden of Maine, Grimes of Iowa, and Trumbull of Illinois were types of the conservatives.<sup>10</sup> Stevens' success in this undertaking was the result of shrewd planning and constant effort.

When Congress met in December, 1865, the Tennesseans insisted on admission to their seats. Andrew Johnson had selected Horace Maynard, a unionist representative from Tennessee, to be used as a means of thwarting Stevens in his purpose of excluding members from the southern states. Stevens outmanouvered him and the seat was refused Maynard.<sup>11</sup> There was a strong feeling among Republicans that the Tennesseans should be excepted from the general rule of exclusion as applied to the seceded states, and Stevens had the very difficult task of waging his fight against this sentiment in the ranks of his own party. He realized that admission of Tennessee at this time would have meant virtual approval of the President's policy. When it seemed probable that the resolution, made by a sub-committee of the Joint Committee of Fifteen, permitting Tennessee readmission to the Union was about to be adopted, Stevens "calmly announced that his opinion as to the expediency of such action had changed since the preceding day"; and that he had decided that a declaration of the power of Congress over reconstruction was the first duty of the committee. He then moved that all other business be postponed in order that he might offer the following resolution, upon which he asked immediate action:

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<sup>10</sup> Ibid., 307.

<sup>11</sup> Globe, 3 et seq.

"Be it resolved, by the House of Representatives, the Senate concurring, that in order to close agitation upon a question which seems likely to disturb the action of the government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven states which have been declared to be in insurrection, no senator or representative shall be admitted into either branch of Congress from any of said states until Congress shall have declared such state entitled to such representation."

The resolution was adopted.<sup>12</sup> Such was Stevens' sway over the committee -- even in the face of what seemed to be opposition. Johnson suspected that the appointment of the Joint Committee of Fifteen was a design against him and his policy. When Stevens foiled his attempts to seat the Tennesseans, the President still hoped that the Senate would refuse to concur in the action of the joint committee. When it did not refuse, he felt sure that Stevens and Sumner had made extensive plans against him.<sup>13</sup> His consistent refusal to compromise with Congress resulted in his losing the support of even the conservative senators. Gradually, Fessenden and Grimes inclined to the radical measures of Stevens and his colleagues. As long as there was no open breach between the President and Congress, Stevens feared an adjustment between them which would upset his own plans for reconstruction of the seceded states; so he and his followers took every opportunity to anger Johnson.<sup>14</sup>

On December 18, 1865, Stevens, in a speech in Congress, criticized both Lincoln and Johnson for having assumed the position that reconstruction was within the province of the President of the United States. Quoting Article IV of the Constitution, he said:

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<sup>12</sup> Kendrick, 71.

<sup>13</sup> Ibid., 228.

<sup>14</sup> Ibid., 229.



"New states may be admitted by Congress into this Union . . . . The United States shall guarantee a republican form of government."

He then asked: "Who is the United States?" He declared that it was neither the judiciary nor the President; "but the sovereign power of the people exercised through their representatives in Congress, with the concurrence of the Executive."<sup>15</sup> McCall states that Stevens' speech mortally offended the Administration and deeply wounded Johnson.

Henry J. Raymond attempted to defend Johnson but failed to shake the logical position held by Stevens, that the rebel states must be governed by the laws of war as conquered provinces.<sup>16</sup>

The legislatures of Mississippi, South Carolina, Alabama and Florida passed laws which permitted the creation of special crimes and the imposition of special penalties upon Negroes.<sup>17</sup> People in the North felt that emancipation would be nullified to a great extent by state laws if the making of the laws was left exclusively to the former owners of the Freedmen. The opinion spread that freedom of the Negroes must be safeguarded with the ballot.<sup>18</sup> Schouler asserts that Northern sentiment yielded to such phrases as:

"The Negro needs the ballot for his self protection; they, at least who handled a musket, can surely handle a ballot; The Negro vote of the South will always be cast for loyalty to the Union and to the party which preserved it and brought it racial freedom."<sup>19</sup>

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<sup>15</sup> McCall, 261.

<sup>16</sup> Ibid., 264.

<sup>17</sup> McCall, 250.

<sup>18</sup> Ibid., 255.

<sup>19</sup> James Schouler, History of the United States (New York, 1913), VII, 38.

Johnson's Cabinet appeared to be evenly divided on the proposal to grant suffrage to Negroes. Johnson was not friendly to Negro suffrage but was willing to see such Negroes admitted as voters who could read the Constitution and write their names, or who paid taxes on as much as two hundred and fifty dollars worth of property. He did not make this concession because he believed either that the Negro was politically capable or that he should be admitted to the rights of manhood but solely as a means of preventing the radicals from keeping the rebel states from renewing their relations to the Union. He stated positively that even qualified Negro suffrage should be decided by the state; that the Federal power could not prescribe suffrage rules.<sup>20</sup> Sumner in the Senate was hostile to Johnson's plan. He urged the importance of suffrage and civil rights for the Negroes and gave vivid descriptions of the outrages perpetrated against them by the whites of the South. The report of Carl Schurz on conditions in the South was called for by the Senate and helped to create sentiment against the President.<sup>21</sup> Before the 39th Congress convened, Thaddeus Stevens wrote the President to wait for Congress and take no initial steps at all in reconstruction. Later he wrote: "No one of the Northern leaders approves of your policy." Medill, of the Chicago Tribune, sent a letter telling Johnson that "the great doctrine of equal rights will prevail" and admonishing him not to go back on those who had elected him.<sup>22</sup> The action of Congress in repudiating his course and overturning civil governments in the South was

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<sup>20</sup> Woodburn, 333.

<sup>21</sup> Ibid., 305.

<sup>22</sup> Schouler, 39.

blow to the President. He had expected opposition from the radicals but not from the moderates; and he was particularly wounded because it seemed to him that Congress was more interested in the success of the Republican party than in the welfare of the country.<sup>23</sup>

"The difference between the President and Congress was basic."<sup>24</sup> Johnson was opposed to any fundamental change in the Constitution. Congress, legislating for the protection of the emancipated Negroes, in February, 1866 passed the Freedmen's Bureau Bill, extending the power and enlarging the staff of the bureau.<sup>25</sup> The original act establishing the Freedmen's Bureau was passed on March 3, 1865. The Bureau was established under conditions of war; was made a branch of the war department; and the act was to expire one year after cessation of hostilities. The object of the bureau was to protect and support Freedmen within the territory controlled by the Union forces. Those who were destitute were to be supplied with clothing and fuel. Vacant lands were to be parcelled out to Freedmen and refugees; the limit to any one individual was forty acres; and protection in the use of the land was promised for three years. The Congressional committee was of the opinion that without the bureau Negroes would not receive fair prices for their labor and would hardly live in safety.<sup>26</sup> Winston claims that the bill passed by Congress in February, 1866, was formulated on the Stevens idea that the South was conquered territory, and was a blow to Presidential

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<sup>23</sup> Winston, 321.

<sup>24</sup> Ibid., 369.

<sup>25</sup> Woodburn, 355.

<sup>26</sup> Ibid., 369.

reconstruction.<sup>27</sup> On February 19, 1866, the President vetoed the bill. This veto officially opened the breach between him and Congress.<sup>28</sup> The bill had passed the House by a vote of 137 to 33 and the Senate by 37 to 10, but it was defeated after the veto.<sup>29</sup> The Senate sustained the veto by a narrow margin<sup>30</sup> and Johnson and his supporters thought that this triumph would check the progress of the radicals against him;<sup>31</sup> but on the same day that his veto was sustained, the House, led by Thaddeus Stevens, adopted a concurrent resolution which declared that no senator or representative should be admitted from any seceded state until Congress had declared the state entitled to representation. The Senate adopted the resolution on March 2, 1866, and the two houses were openly committed in opposition to the President's policy of reconstruction.<sup>32</sup> Johnson was mistaken in his belief that the radicals alone were responsible for the Freedmen's Bureau Bill. The majority of the Republicans were in favor of such modifications of his policy as would give assistance to the Freedmen.<sup>33</sup> He was of the opinion that the Freedmen's Bureau Bill was merely the first of many measures that would be advanced by his opposers in their efforts to thwart him, and determined to meet the issue firmly at the start.<sup>34</sup> In defending his veto, the President stated that the bureau was established as a war measure and a state of war

<sup>27</sup> Winston, 341.

<sup>28</sup> Woodburn, 355.

<sup>29</sup> Winston, 341.

<sup>30</sup> Woodburn, 355.

<sup>31</sup> Winston, 341.

<sup>32</sup> Woodburn, 366.

<sup>33</sup> Kendrick, 235.

<sup>34</sup> Winston, 325.

no longer existed; that the act was unconstitutional as by it "the United States would assume functions on behalf of Negroes that it had never been authorized to assume on behalf of white men"; and that the legislation was undertaken while the states most affected were not represented in Congress.<sup>35</sup> Kendrick affirms that had Johnson based his veto solely on inexpediency and unconstitutionality, the conservatives would hardly have swung so immediately to the side of the radicals. His criticism of legislation by Congress while the rebel states were unrepresented was the deciding factor in alienating them at the time and causing the eventual withdrawal of their support.<sup>36</sup>

The New York Sun did not consider that the difference between the President and Congress was sufficient to justify a veto, and held that the veto could only be explained on the grounds that the President had his own policy of restoration of the seceded states and Congress had its own.<sup>37</sup> The New York Tribune of February 20, 1866, announced its opinion that President Johnson's mistake was a grave one and, as a consequence of his action, he must assume responsibility for any subsequent wrongs or indignities that might be inflicted on the Freedmen.<sup>38</sup> The Chicago Republican considered the veto as producing an irreparable break between the President and Congress, and charged him with refusing consent to a just and necessary measure.<sup>39</sup> The Boston Advertiser did not see how Congress could decline to

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<sup>35</sup> Woodburn, 370.

<sup>36</sup> Kendrick, 236.

<sup>37</sup> Ibid., 235.

<sup>38</sup> Ibid., 236.

<sup>39</sup> Ibid., 237 (Quoted in New York Tribune, March 3, 1866).

set the issue openly and firmly, "relying on the certain support of the great majority of the American people who would adhere to a course required by self respect and public safety."<sup>40</sup> Though few of the Republican papers of the country were supporters of the radicals, all of them supported the principles of the Freedmen's Bureau Bill and deplored the President's action in vetoing it.<sup>41</sup>

Senators Fessenden, Grimes, Henderson, Sherman, Bingham and other conservatives, both in Senate and the House were personally fond of the President and regretted his action in vetoing the bill, which action left him no other course to follow than that of Stevens, Sumner and their radical colleagues.<sup>42</sup> Fessenden declared that he had given evidence of his desire to support the President to the best of his ability, when he had supported Johnson in war measures for which no constitutional authority could be found; but he felt that the time had come "when Congress must revert to its original position."<sup>43</sup>

Thaddeus Stevens quickly took advantage of the effect of the President's veto of the Freedmen's Bureau Bill by attempting to push the resolution through the House of Representatives and the Senate. He knew that if this could be done, the rupture with Johnson would be considered final. The proceedings in the House on February 20, 1866 when Stevens manipulated what has been called the railroading of the resolution are recorded in seven full

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<sup>40</sup> Ibid., 238.

<sup>41</sup> Ibid., 236.

<sup>42</sup> Winston, 391.

<sup>43</sup> Kendrick, 148; Globe, 2nd sess., 39th Cong., 27.

pages of the Congressional Globe<sup>44</sup> and in the leading newspapers of February 21, 1866.<sup>45</sup> He presented the resolution; the previous question was called; radical members either were angry or pretended to be; and points of order were unnoticed or ruled against. When the Democratic floor leader, Eldridge, suggested to Stevens that the Democrats would be willing to go on with business if he would withdraw the previous question, Stevens replied that it was merely the return of the rebels of 1861; he had once sat through a similar scene for thirty-eight hours and was then ready to sit for forty hours. The Democrats pleaded vainly for only one hour for debate. After six hours, they gave up the contest; the vote was taken and the resolution passed 109 to 40. Only eight Republicans voted with the Democrats; about thirty had absented themselves. The next day, however, Stevens moved to reconsider the vote, and the absentees under his influence were forced to vote affirmatively.<sup>46</sup> Thus, three-fourths of the House followed Stevens' leadership against the President's policy.<sup>47</sup> On February 21, when Fessenden, in the Senate, moved the postponement of the regular business in order to take up the resolution, an objection caused it to be postponed until February 23 -- since February 22 was a holiday. On February 23, Fessenden again moved to lay aside the regular order of business and consider the resolution. John Sherman, from Ohio, objected, claiming that the Senate was in a great excitement and "the debate would needlessly irritate the controversy."

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<sup>44</sup> Globe, 943-950.

<sup>45</sup> Kendrick, 239.

<sup>46</sup> Globe, 966.

<sup>47</sup> Kendrick, 240.

essenden replied that, personally, he was calm and was "unaware of any effort to provoke a wrangle with the President." Over the protests of Sherman and others, Fessenden's motion prevailed.<sup>48</sup> On March 2, 1866 the resolution was passed by a vote of 29 to 18; even Sherman, who had spoken against it, voted for it.<sup>49</sup> Its adoption by the Senate was really an ultimatum by the radicals that they intended to oppose Johnson and had no thought of any cooperation with him. The conservatives were notifying him that he must pay some respect to Congress.<sup>50</sup>

On several occasions, President Johnson and Thaddeus Stevens personally attacked each other in public speeches. The President's friends were embarrassed by his actions; Stevens' sarcastic remarks amused and pleased the radicals. When Johnson lost his temper and berated him, Stevens, without apparent effort, ironically praised the President and caused him to appear ridiculous. In his speech of December 18, 1865 Stevens spoke of the legislatures of the President's reconstructed states as "an aggregation of whitewashed rebels, who, without any legal authority, have assembled in the capitals of the late rebel states and simulated legislative bodies."<sup>51</sup> Kendrick considers that it was most unfortunate for Johnson that in January, 1866, the bill which provided for unqualified suffrage in the District of Columbia was not passed; as its passage would have caused the country to sustain him in his efforts, while certain defeat awaited him on such issues

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<sup>48</sup> Ibid., 243, 244.

<sup>49</sup> Globe, 1147.

<sup>50</sup> Kendrick, 249.

<sup>51</sup> McCall, 263.



the Freedmen's Bureau and Civil Rights Bills and the Fourteenth Amendment. In January 31, 1866, Stevens informed the House of remarks, reported in the newspapers of January 20, and reputed to have been made by Johnson to "a distinguished senator," that he intended to veto the bill to provide unqualified suffrage in the District of Columbia. Stevens declared that the statement was meant as a proclamation from the President, in violation of the privileges of the House; "made in such a way that centuries ago, had it been made to Parliament by a British king, it would have cost him his head." He concluded his speech with the remark: "but we are tolerant of usurpation in this tolerant government of ours."<sup>52</sup>

On February 22, 1866, Johnson made what is known as his Washington's Birthday Speech. In it he arraigned Thaddeus Stevens, Charles Sumner and Wendell Phillips as traitors; and said that they, like Jefferson Davis and Robert Toombs were destroyers of the principles of the government.<sup>53</sup> This speech cost him much popular support. The mass of Republicans proceeded to class him with the rebels and copperheads, who usually employed similar tactics. In his speeches made during his Swing Around the Circle, the President violently attacked Congress and, according to McCall, assumed that the only obstacles which stood between himself and a dictatorship were his own self control and his attachment to the Constitution.<sup>54</sup> He had previously denounced the Joint Committee of Fifteen as "an irresponsible central dir-

<sup>52</sup> Kendrick, 231.

<sup>53</sup> Edward McPherson, Political History of the United States (1880), 60, 61; McCall, 265.

<sup>54</sup> Ibid., 281.

ectory that had assumed the powers of Congress and was using them to keep the southern states out of the Union.<sup>55</sup> In his speech at Cleveland, the President asked: "Why not hang Thad Stevens and Wendell Phillips?" and declared that "the powers of hell and Thad Stevens and his gang" could not keep him from his purpose.<sup>56</sup>

On March 10, 1866, Stevens made a speech in which he seriously eulogized the President. He said that Johnson stood so firmly for the Union that no one could doubt his good intentions. Mr. Price, a radical from Iowa, interrupted him to ask if he were the same Thaddeus Stevens denounced by the President on February 22. Stevens asked if Price really thought the President ever made that speech. He declared that he was glad to have the opportunity to exonerate the President from ever having made it.<sup>57</sup> He then launched into a mock defense of Johnson; accused the Democrats of inventing the story; and asked permission of the audience to continue his "accustomed friendly position" with the President. The intended effect was produced. The Democrats were much annoyed; the Republicans highly amused; and the President ridiculed.<sup>58</sup>

The second attempt of Congress to secure the rights and protection of the Freedmen was associated with the Civil Rights Bill. The purpose of the bill was to establish equality of citizenship; to place the Negro on the same civil footing as the white man. It provided that all persons born in

<sup>55</sup> Kendrick, 242.

<sup>56</sup> McCall, 281.

<sup>57</sup> Ibid., 267; Kendrick, 261.

<sup>58</sup> McCall, 268.

the United States and not subject to any foreign power, excluding Indians not taxed, were to be recognized as citizens of the United States. On all these, regardless of class or color, were to be conferred the right to sue; to make and enforce contracts; to give evidence; to inherit, buy, lease, sell, hold and convey real estate and personal property; and to have the benefit of equal laws for the security of life and liberty. This protection was to be executed through the operation of the civil courts. A penalty of one thousand dollars or a year's imprisonment was provided for anyone who discriminated against any citizen "on account of race, color or previous condition of servitude."<sup>59</sup> This was the first time that the national government assumed to define and protect civil equality within the states and to support the idea that real civil liberty should be national.<sup>60</sup> Congress passed the Civil Rights Bill on March 13, 1866. Johnson vetoed it on March 29. He believed in the doctrine of state's rights; consequently, his veto was a part of his determined opposition to a Congress which did not accept his plans.<sup>61</sup> In his veto of the bill he said that its details were dangerous; that time only could adjust the relations between the Negroes and their former masters.<sup>62</sup> The bill was passed over the President's veto by a very narrow margin in April, 1866. On April 6, 1866, the veto was overridden in the Senate by a single vote. In the House, under the management of Thaddeus Stevens, the vote was one hundred and twenty to forty-one, -- twenty-one

<sup>59</sup> Woodburn, 371.

<sup>60</sup> Ibid., 372.

<sup>61</sup> Ibid., 373.

<sup>62</sup> Winston, 378.

members not voting. By the application of the previous question, Stevens avoided any debate.<sup>63</sup> This was the first instance on record of Congress overruling the veto of the President upon a constitutional question.<sup>64</sup> Winston claims that the radicals were now very joyous; that "Stevens and Sumner had crossed the Rubicon and taken the entire army with them."<sup>65</sup> Woodburn asserts that the principle of human equality was deeply embedded in Stevens and that he always showed loyalty to the cause of fundamental democracy.<sup>66</sup> Rhodes is of the opinion of the opinion that Johnson was earnest in his desire that Negroes should be properly treated; and states that the President enforced all statutes relating to the Negro, though he had previously vetoed such statutes.<sup>67</sup> On April 14, 1865, Harpers Weekly -- one of the papers to give up hope of reconciliation between the President and Congress -- made the announcement that the President must understand the inability of the Union party to "accept indiscriminate support of all his views and measures as the test of constitutional fidelity." It also expressed regret that Johnson regarded the situation as a struggle between himself and Thaddeus Stevens.<sup>68</sup>

Had President Johnson approved the Civil Rights Bill, he would probably have retained the support of many conservative Congressmen. Such men as

<sup>63</sup> Woodburn, 377.

<sup>64</sup> Winston, 349.

<sup>65</sup> Ibid., 350.

<sup>66</sup> Woodburn, 383.

<sup>67</sup> Rhodes, 27.

<sup>68</sup> Kendrick, 238.

Fessenden, Grimes and Trumbull had expressed a willingness to cooperate with him but felt that he should agree that the basis of representation should be changed; that Negroes should be secured in their civil rights; and that Congress did have authority over the rebel states while they were still unre-presented, and over the question of reconstruction.<sup>69</sup> Stevens foresaw the intentions of the conservatives, in case the President approved the Civil Rights Bill and the Tennessee resolution. Early in March, when the majority of Johnson's cabinet urged him to sign the Civil Rights Bill, Stevens decided to irritate the President into action which would weaken him irreparably. so on Saturday, March 10, 1866, he delivered the speech -- spoken of before in this paper -- which produced the desired result.<sup>70</sup> After the passage of the Civil Rights Bill a veto of the President was "little more than an idle formality, to be promptly brushed aside by the great Republican vote of the two Houses, and the will of Congress became absolute."<sup>71</sup>

<sup>69</sup> Ibid., 251.

<sup>70</sup> Ibid., 259.

<sup>71</sup> McCall, 271.

#### CHAPTER IV. STEVENS AND THE FOURTEENTH AMENDMENT

Radicals realize necessity of Congressional plan -- Stevens and the Robert Dale Owen plan -- Action of Joint Committee -- Stevens introduces bill in House -- Senate modifies original form of amendment -- Stevens opposition to change -- Passage of modified amendment.

## CHAPTER IV

### STEVENS AND THE FOURTEENTH AMENDMENT

The chief measure evolved by the Joint Committee of Fifteen was the Fourteenth Amendment.<sup>1</sup> The testimony taken by the sub-committees which were appointed by the Joint Committee on January 15, 1866 was used as the raison d'être of the Fourteenth Amendment.<sup>2</sup> This testimony was taken from January 20 until the end of April and was the first inquiry by congressional committees into conditions in the South after the Civil War. The testimony was taken from army officers who had been in service in the South, from Freedmen's Bureau agents, from so-called refugees, and from congressmen-elect from the southern states. All of the witnesses were examined in Washington. The army officers, Freedmen's Bureau agents, and the refugees were anxious for Congress to disregard the President's reconstruction work in the South, and provide governments there similar to those in Tennessee and Missouri, where only loyalists could vote.<sup>3</sup> After having heard the testimony, even the most conservative Republicans believed that such guarantees as were later embraced in the Fourteenth Amendment, should be included. They were:

\*equality of civil rights without regard to race or color; the validity of the United States debt, including debt incurred for payment of pensions and bounties; the repudiation of all rebel debts and a denial of the validity of claims for slaves emancipated as property destroyed during the war:

<sup>1</sup> Kendrick, 18.

<sup>2</sup> Ibid., 264. This testimony was also used as campaign material in the election of 1866. 150,000 copies were printed and distributed by senators and representatives among their constituents.

<sup>3</sup> Ibid., 265.

exclusion of the more prominent rebels from office; and a more equitable basis of representation."<sup>4</sup>

Such radicals as Stevens, Boutwell, and Washburne were anxious that suffrage be granted to all Negroes and that rebels be disfranchised. They considered that this would insure the election of loyal members from the southern states. Testimony had proved that the Negroes were almost the only loyal group in the South, and that they could be depended upon to vote for those who had secured their freedom and rights. Having decided on the measures to be recommended to Congress, the Committee of Fifteen prepared the Fourteenth Amendment.<sup>5</sup>

Opponents of Congress criticised it for opposing Johnson's policy of reconstruction when Congress offered no plan of its own. When it became evident that harmony between the President and Congress could not be expected, even the supporters of Congress became impatient because a plan had not been set forth by that body. Radicals were apprehensive that unless the Republicans adjusted their own differences and agreed upon a policy of reconstruction, Johnson's plan would become permanent. Radical journals and newspapers urged the immediate making and presentation of a plan opposed to that of the President.<sup>6</sup> On April 20, 1865, the Nation, in an editorial, warned Congress that unless the members would soon unite and present some adequate plan, the public would let the President carry out his plan. The New York Tribune, on April 21, appealed to Congress for an immediate plan,

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<sup>4</sup> Ibid., 266.

<sup>5</sup> Ibid., 290.

<sup>6</sup> Ibid., 292.



and suggested that resolutions offered by Senator Stewart, of Nevada, might supply a good basis for a plan. Stewart had sustained Johnson's veto of the Freedmen's Bureau Bill, with the understanding that he would not veto the Civil Rights Bill, and turned against the President when he failed to keep his word.<sup>7</sup> Stewart's resolution, introduced on April 12, 1866, provided for impartial suffrage and equality in civil rights; declared invalid any claims for emancipated slaves; declared also that ratification of the foregoing amendment would entitle such states to resume their former relations with the Government, and that a general amnesty would exist to all persons in such states who had in any way been connected with the rebellion.<sup>8</sup> On April 16, Stewart discussed his proposition with the members of the House, but since it would neither decrease the number of the southern representatives nor give any appreciable portion of them to the radicals, the measure was not accepted by the radicals.<sup>9</sup>

The committee also considered a plan proposed by Robert Dale Owen, an English radical who had come to the United States a few years before the Civil War. In the Atlantic Monthly for June, 1875, Owen published an article in which he related how he came to propose a plan of reconstruction and how it came to be endorsed by Thaddeus Stevens. His proposition of "a joint resolution proposing an amendment to the Constitution, and to provide for the restoration of the states lately in insurrection, to their full political rights," contained five sections. Section one guaranteed equal

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<sup>7</sup> Winston, 348, 384; Globe, 1853, 1754.

<sup>8</sup> Ibid., 1906.

<sup>9</sup> Kendrick, 293.

civil rights to all persons in the United States. Section two provided suffrage for all, regardless of race, color, or previous condition of servitude. Section three provided that no class of persons who had been denied suffrage because of race, color, or previous condition of servitude should be included in the basis of representation until July 4, 1876. Section four forbade payment of the Confederate debt or of claims for loss of slave labor. The fifth section gave Congress power to enforce the provisions of the article, by appropriate legislation. Owen stated that Stevens, after carefully reading the manuscript, said: "I'll be frank with you, Owen. We've had nothing before us that comes anywhere near being as good as this, or as complete." Stevens said further that on the following day he would lay the amendment before the committee and was of the opinion that it would probably pass. Fessenden, Bingham, and Boutwell approved the resolution; Washburne, Conkling, and Howard were enthusiastic over it. In fact, most of the Republicans on the committee favored the resolution, but the Democrats did not. Courtesy to Fessenden, who was sick with varioloid, caused a delay in the report being transmitted to Congress, and the committee abandoned the plan.<sup>10</sup> Stevens explained that the committee lacked "backbone enough to maintain its ground" against the opposition to Negro suffrage being included in the Republican platform for the coming election; that Republican caucuses held in New York, Illinois, Iowa, and Indiana had been afraid of inserting a clause advocating Negro suffrage.<sup>11</sup> Owen said that he was much mortified by the result, but could not restrain a smile when Stevens, who thought that

<sup>10</sup> Ibid., 300.

<sup>11</sup> Ibid., 301.

Fessenden's presence in the meeting might have helped in securing adoption of the resolution, exclaimed: "Damn the varioloid! It changed the whole policy of the country." Kendrick observes that Owen's feeling that Stevens committed himself almost wholly to the plan was probably erroneous, as Stevens, himself, was in favor of much more stringent bills for disfranchising rebels; that he cared little for the Fourteenth Amendment, as actually adopted, and did not intend to serve permanently as a settlement of the reconstruction problem -- but merely as a party platform.<sup>12</sup> Owen's plan was, to some extent, used as a model for the amendment; though, in avoiding the issue of the Negro suffrage, the committee made many changes from the original Owen plan.<sup>13</sup>

The Fourteenth Amendment as finally adopted contained five sections. Section one declares that all persons who are citizens of a state are likewise citizens of the United States, and that no state shall make any law which shall abridge the rights of such citizens; or deprive any person of life, liberty or property, without due process of law, nor deny the equal protection of the laws. Section two provides that representation shall be apportioned according to population, but if the right to vote is denied, the representation shall be accordingly reduced. Section three deprives of holding office all persons who previously had taken oath, in certain capacities, to support the Constitution, and had afterward engaged in rebellion. The disability might be removed by a two-thirds vote of each House. Section four establishes the validity of the debt or of any claims for emancipated

<sup>12</sup> Ibid., 302.

<sup>13</sup> Ibid., 303.

slaves. Section five authorizes Congress to enforce the amendment by appropriate legislation.<sup>14</sup>

Thaddeus Stevens reported the bill to the House of Representatives on April 30, 1866. On the same day, it was reported by Fessenden to the Senate.<sup>15</sup> President Johnson made no concealment of the fact that he opposed the amendment.<sup>16</sup> On May 8, Stevens opened the debate on the resolution. He stated that the proposition was not all that was desired, and was indeed far from what he, personally, wished but was probably all that could be obtained. Speaking of Sumner's opposition, he expressed regret that the first amendment, on the basis of representation, had been "slaughtered in the house of its friends by a puerile, pedantic criticism and by a perversion of philological definition." He explained that section one meant simply that the law should operate similarly for whites and blacks and would abolish the black codes; and section three was the most important of all, its only drawback being its leniency. He insisted that instead of being too stringent by setting 1870 as the time after which rebels might exercise power in the government, 18070 would be more appropriate.<sup>17</sup> Practically every Republican, and many Democrats who spoke on section three either expressed opposition to the principle or against the probability of its enforcement.<sup>18</sup> When it seemed that section three would be stricken out, Stevens made a speech which gave undeniable evidence of his powers of in-

<sup>14</sup> Winston, 398; McCall, 271, 272.

<sup>15</sup> Winston, 349.

<sup>16</sup> Ibid., 350.

<sup>17</sup> Globe, 2459, 2460.

<sup>18</sup> Ibid., 2533.

vective and effective appeal to partisanship. This speech undoubtedly caused the section to be retained -- though by narrow margin of 84 to 79.<sup>19</sup> To the members of his party, he made the plea: "When party is necessary to sustain the Union, I say rally to your party." Contending for the retention of the section, he said, "Give me the third section, or give me nothing." On May 10, the amendment, as reported by the committee, passed the House by a vote of 137 to 37.<sup>20</sup>

No action was taken in the Senate until May 14.<sup>21</sup> In the meantime, on May 2, Senator Dixon who classed himself as a Republican, stated his intention to offer the following substitute:

"Resolved, that the interests of peace and of the Union require the admission of every state to its share in public legislation whenever it presents itself in an attitude of loyalty and harmony; but in the persons of representatives whose loyalty cannot be questioned under any constitutional or legal test."

He contended that what the country needed was a practical method of hastening the reestablishment of all the states in their full constitutional relations, and that the committee's plan would cause delay. His plan evidently received no consideration as it was not heard from after he and Sumner had an argument about it on May 2.<sup>22</sup> On May 10, Stewart moved that section three be stricken out, and offered an additional proposition for defining citizenship.<sup>23</sup> Fessenden was still ill from the varioloid, so Senator

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<sup>19</sup> Ibid., 2545.

<sup>20</sup> Ibid., 2545.

<sup>21</sup> Ibid., 2545.

<sup>22</sup> Kendrick, 309.

<sup>23</sup> Globe, 2560.

Howard of Michigan presided in his stead. He expressed regret that section two was necessary, but, since it was expedient, he defended it. He objected to the third section because he believed it would accomplish nothing as the rebels would still be permitted to vote for members of the state legislature, and they, in turn, could select the presidential electors. Senator Wade of Ohio suggested replacing section two with the old resolution on representation, which was based on the number of voters and which had been defeated previously. He recommended that section three be stricken out, and that the addition of a clause, declaring the validity of the National debt -- including debts incurred for pensions and bounties -- to section four would strengthen the amendment.<sup>24</sup> Senator Sherman moved to replace sections two and three with clauses for apportioning representation according to the male voters, and direct taxes according to property values in each state.<sup>25</sup> On May 29, the Republicans held a caucus of several hours length, with the result that they finally adjusted their differences in regard to the provision of the amendment.<sup>26</sup> On May 30 Reverday Johnson, of Maryland, protested against section three. He asserted that struck at the men who were most influential and who could bring about the desired end. Thomas Hendricks, Democratic senator from Indiana, on June 4 spoke bitterly against the policy of deciding in a party caucus such an important matter as a constitutional amendment. He explained how twenty Republicans voting for

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<sup>24</sup> Kendrick, 312.

<sup>25</sup> Globe, 2804.

<sup>26</sup> Kendrick, 316.

the amendment could bind the other nineteen.<sup>27</sup> There were forty-nine members in the Senate -- thirty-nine Republicans and ten Democrats.<sup>28</sup> Though the amendment was debated for three more days, and a number of Republicans expressed disapproval of it as a settlement of the question of reconstruction, all efforts to make further changes in it were of no avail against the decision reached in the party caucus.<sup>29</sup> On June 8, 1866, the vote resulted in 33 yeas and 11 nays. Five days later, Thaddeus Stevens, in the House, sadly announced the concurrence of the majority party with the amendments of the Senate.<sup>30</sup>

The Fourteenth Amendment was proposed June 16, 1866. "Its ratification by the ten states that were in insurrection in March, 1867, was made a condition of their being formally restored to the Union." The amendment was ratified on July 28, 1868.<sup>31</sup>

President Johnson's failure to endorse the Fourteenth Amendment is considered one of his greatest mistakes and is pointed to as an evidence of obstinacy.<sup>32</sup> His hostility to the amendment produced a crisis in his cabinet and resulted in the resignation of three members.<sup>33</sup>

Southern sentiment was unfavorable to the amendment and the majority

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<sup>27</sup> Globe, 2938-2942.

<sup>28</sup> Kendrick, 316.

<sup>29</sup> Ibid., 319.

<sup>30</sup> Globe, 3144-3149.

<sup>31</sup> B. A. Hinsdale, The American Government, National and State (Chicago, 1905), 362.

<sup>32</sup> Winston, 353.

<sup>33</sup> McCall, 277.

of the seceded states inclined to rejection of it.<sup>34</sup> The New York Herald of June 12, 1866, said of the amendment, as modified by the Senate: "There is nothing here obnoxious to public opinion in the way of Negro suffrage, while the alternative suggested will be satisfactory to the North." The Herald evidently saw that neither Stevens nor his radical colleagues regarded the amendment as a finality; and it offered the suggestion to the President that, in order to defeat their schemes for Negro suffrage and confiscation, he unite with the conservatives as Fessenden and Bingham, who considered the amendment as a finality; urge the southern states to ratify it; and reorganize his cabinet with able conservative men. It further suggested that he adopt a strong foreign policy toward France and England and thus divert attention from irritating domestic problems. Kendrick comments that Johnson would not accept any such advice, and pushed into more serious difficulties while "Thaddeus Stevens, grim and disappointed over the modified form of the amendment shrewdly continued to plan more radical and binding plans."<sup>35</sup>

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<sup>34</sup> James Schouler, History of the United States (New York, 1913), VII, 85.

<sup>35</sup> Kendrick, 352.



**CHAPTER V. RECONSTRUCTION PLANS AND THE GREAT RECONSTRUCTION ACTS**

Stevens' first and second reconstruction bills  
-- Raymond's criticism -- Territorial govern-  
ments proposed -- Stevens and the Blaine amend-  
ment -- The Wilson Proviso -- The Shellabarger  
amendment -- Johnson's dissent -- Passage of  
the bill.

## CHAPTER V

### RECONSTRUCTION PLANS AND THE GREAT RECONSTRUCTION ACTS

During the political campaign which followed the passage of the Fourteenth Amendment, some Republicans referred to it as the final provision for reconstruction; others, as merely a step towards it. The remarks made varied principally according to the constituency of the speaker. Radicals in Ohio, Indiana, New York, and other doubtful states, spoke of it as a generous offer to the South which would assure restoration, if ratified; but in such decidedly radical states as Michigan, Wisconsin, and Iowa and in New England, it was not regarded as a finality. The Fourteenth Amendment was probably the most valuable cause contributory to the success of the radicals in this campaign.<sup>1</sup> Contrary to the usual procedure when the presidency is not at stake, national conventions were held. The demonstrations in favor of Johnson were supported by groups which were so antagonistic that they "either neutralized each other or produced popular ridicule."<sup>2</sup> The group which met to denounce the President's policy, and which was composed mainly of the most conspicuous volunteers in the War for the Union, was successful in gaining popular approval of the radical policy in Congress. As the campaign progressed, agitation in favor of granting suffrage to Negroes in order to safeguard their freedom, became more marked. Popular feeling accorded with Thaddeus Stevens' ideas that a policy must be followed which in no way even appeared to be surrendered to the rebel doctrines and methods.<sup>3</sup>

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<sup>1</sup> Kendrick, 353.

<sup>2</sup> McCall, 278.

<sup>3</sup> Ibid., 279.

The great question before Congress was how to put through an amendment protecting the rights of the Freedmen, despite the southern states.<sup>4</sup> Secretary Gideon Welles thought that this would finally be done as Stevens suggested, by disregarding the southern states. He was of the opinion, however, that even if the southern states were banned by Congress and declared territories, the radicals would not have completely accomplished their purpose; as the Freedmen in the South would still be, to a considerable extent, at the mercy of their former owners.<sup>5</sup> According to Winston, Congress planned to coerce the South and enforce its plans -- which were to enfranchise the Negroes, disfranchise the whites, and refer the Fourteenth Amendment to an electorate composed of Freedmen, "scallawags, carpetbaggers, and a few decent whites."<sup>6</sup>

As a cautious practical politician, Thaddeus Stevens had for some time realized that in order to be successful in the coming elections, his party must not be faced with the charge of being obstructionists and of having no plan of its own. After the change of section three from the old form to the new, he was unwilling to risk passing the restoration bill. Radical journals like the Independent and the Nation caused him to feel that his party could safely advocate a thorough reconstruction for the rebel states.<sup>7</sup> So on May 28, 1866, Stevens introduced into the House his first bill for

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<sup>4</sup> Winston, 395.

<sup>5</sup> Ibid., 396.

<sup>6</sup> Ibid., 397.

<sup>7</sup> Kendrick, 330. In a footnote, Kendrick explains that during May and June, 1866 radical journals continued to urge Congress to name a plan based on exact justice.

reconstruction of the rebel states.<sup>8</sup> It was really a substitute for the restoration bill. It recognized the governments established by the President as de facto and valid only for municipal purposes; in the state conventions the members must be elected by all male citizens, regardless of race or color; all persons who had held office under the so-called Confederate governments or had taken the oath of allegiance to it were declared to have forfeited citizenship and in order to become citizens must be naturalized just as other foreigners. In addition, unless all citizens were accorded equality in civil and political rights, the state would lose its right to representation. Compliance with the provisions would entitle senators and representatives to admission to Congress. The bill was ordered printed but was not acted upon at the time.<sup>9</sup>

On May 29 Senator Ashley of Ohio offered an amendment to the committee's restoration bill, but the bill was laid on the table on that same day in the Senate and was not heard from again. In the House on June 11, Representative Kelly of Pennsylvania introduced a substitute for the restoration bill. His substitute received little consideration, but the restoration bill was debated from June 14 to June 20, on which date Stevens suggested that the bill be disposed of by taking a vote immediately.<sup>10</sup> There was an objection and it was laid on the table. On July 20, Stevens, with a pretended earnestness, asked that it be put on its passage and attempted to avoid debate by moving the previous question. His followers realized that he was not in

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<sup>8</sup> Ibid., 331; House Journal, 637.

<sup>9</sup> This bill was printed in full in the Nation, June 5, 1866.

<sup>10</sup> Globe, 3208 et seq.

earnest and did not second the previous question. "Thus sank into eternal sleep the luckless restoration bill."<sup>11</sup> Finally, on July 28th, the last day of the session, Stevens succeeded in bringing up his bill for the purpose of amending it and making some remarks concerning it. His amendment placed the responsibility of calling the conventions in the southern states upon the President; thus the existing governments were not recognized even for municipal purposes. Stevens' speech in behalf of this bill is spoken of as one of the noblest and most pathetic of his career. One who reads it cannot doubt his honesty and sincerity as he appeals to his colleagues to support his plan for re-creating the political, industrial and social institution of the seceded states. The majority of the Republicans were, however, afraid to enter the approaching campaign upon such a radical issue as was involved in his bill.<sup>12</sup>

Radical ideas showed remarkable growth during the last session of the 39th Congress. In December, 1866, a majority of the Republicans advocated adherence to the Fourteenth Amendment as a final condition of reconstruction. When Congress met after the holidays, the majority of the senators and representatives did not favor the imposition of Negro suffrage on the South by military force, yet in March, 1867, two-thirds of Congress passed the Thorough bill over the President's veto.<sup>13</sup> The rejection of the Fourteenth Amendment by the South; the sentiment against Negroes in the rebel states; and animosity to Johnson on account of his policy and because of his

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<sup>11</sup> Kendrick, 334.

<sup>12</sup> Ibid., 337.

<sup>13</sup> Rhodes, 30.

wholesale removals of Republicans from office, "enabled the partisan tyranny of Stevens and the pertinacity of Sumner to achieve this result."<sup>14</sup> Dunning, in speaking of Thaddeus Stevens and leadership, says:

"Stevens, truculent, vindictive, and cynical, dominated the House of Representatives in the second session of this Congress with even less opposition than in the first. A keen and relentlessly logical mind, an ever-ready gift of biting sarcasm and stinging repartee, and a total lack of scruple as to means in the pursuit of a legislative end, secured him an ascendancy in the House which none of his party associates ever dreamed of disputing."<sup>15</sup>

Sumner, in the Senate, wielded influence in a different way. He was an idealist who preached his doctrines "without intermission and forced his colleagues, by mere reiteration, to give them a place in law."<sup>16</sup> Because only a small proportion of the radicals were whole-heartedly attached to their plan of reconstruction, Stevens and Sumner found no difficulty in taking the lead in another plan.<sup>17</sup> They had an excuse in the fact that many of the rebel states refused to ratify the Fourteenth Amendment. When Congress met on December 3, 1866, three of the rebel states had already rejected the amendment, and the other seven did so during the next two months.<sup>18</sup> On December 4, Charles Sumner informed the Senate of his intention to introduce, at an early date, resolutions declaring the existing governments in the seceded states illegal and excluding those states from representation in Congress and from voting on constitutional amendments.<sup>19</sup>

<sup>14</sup> Ibid., 31.

<sup>15</sup> Dunning, 86.

<sup>16</sup> Ibid., 87.

<sup>17</sup> Kendrick, 355.

<sup>18</sup> Ibid., 354; Rhodes, 13.

<sup>19</sup> Globe, 2nd sess., 39th cong., 7.

Frequently, during the entire second session of the 39th Congress, southern loyalists in Washington were relating stories of the hardships and dangers which they and the Negroes encountered at the hands of the rebels in the South. They asked protection of Congress. Thaddeus Stevens conversed with many of them and, on December 19, 1866, introduced a bill which had that end in view. It was not debated until January, 1867, and, meantime, had been amended. The bill, intended to be a substitute for the restoration bill, was long and somewhat complicated.<sup>20</sup> The substance of the eight sections of which it was composed was: the southern states having forfeited their rights under the Constitution, could be reinstated only by Congress: and a method for this reinstatement was set forth. The governments established by the President were recognized as valid, only for municipal purposes; provisions being made for holding new state conventions and forming and adopting constitutions.

A new electorate was created in the process of erecting states and all male citizens over twenty-one years of age were included; but persons having held office under the Confederate government had forfeited their citizenship and were denied suffrage until five years after applying for citizenship, renouncing allegiance to all other governments, and swearing allegiance to the government of the United States.<sup>21</sup> Section seven contained the provision:

"All laws shall be impartial, without regard to language, race or former condition. If the provisions of this action

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<sup>20</sup> Kendrick, 357.

<sup>21</sup> Woodburn, 444.

should ever be altered, repealed, expurged, or in any way abrogated. This act shall become void, and said state lose its right to be represented in Congress.<sup>22</sup>

Stevens offered the bill as a substitute for the restoration bill in an effort to keep it from being referred to the Joint Committee without debate.<sup>23</sup>

The rule of the House was that all reconstruction matters were to be referred; but though Bingham made the point of order that this resolution be so treated, the Speaker, in accordance with previous suggestions from Stevens, overruled Bingham on the ground that it was a substitute for a bill already offered, and could only be recommitted by a special order of the House.

When Bingham, a few days later, made a motion to that effect, Stevens succeeded in making the House debate nominally on recommitment but actually on the merits of the bill. Before the bill was finally recommitted, Stevens accepted three amendments. Section two was withdrawn because some radicals felt that recognizing the Johnson governments, even for municipal purposes, would weaken their position. Section seven was stricken out because of a general opinion that the provisions were not tenable; and in its place a new section was added which suspended the writ of habeas corpus in the ten states and placed them under martial law.<sup>24</sup>

Stevens called up his bill on January 3, 1867 -- the first day of the session after the holidays.<sup>25</sup> Though much irritation had been caused by the rejection of the Fourteenth Amendment by the southern states, so many

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<sup>22</sup> Globe, 250 et seq.

<sup>23</sup> Kendrick, 360.

<sup>24</sup> Ibid., 361. Tennessee had ratified the Fourteenth Amendment in July, 1866.

<sup>25</sup> Rhodes, 13.



differences arose when the details of any measure were considered that no additional act of reconstruction would probably have been passed at this session had it not been for the astounding energy and the "able and despotic parliamentary leadership of Stevens."<sup>26</sup> In the speech which he made on January 3 in behalf of the adoption of his bill, Stevens urged that the House come to an early conclusion as to what should be done with the rebel states. He declared that conditions were progressively getting worse and referred to the Milligan case, wherein the Supreme Court held martial law unconstitutional except where the action of ordinary courts was impossible, as "more infamous and dangerous than the Dred Scott decision."<sup>27</sup> He explained that his bill was designed to assist loyal men to form governments that would be placed in equally loyal hands and that it denied to the President any power to create new states, dictate organic laws, fix the qualification of voters or determine that states are republican. He declared that Congress has all power other than executive and judicial; "though the President is Commander-in-chief, Congress is his commander . . ."; that the government of the United States is a government of the people and that Congress is the people.<sup>28</sup> He stated that suffrage was a step forward for the Negro; and that he considered equal rights to justice and fair play the law of God, which should be made the law of man.<sup>29</sup>

Bingham advocated a less radical program; Spaulding of Ohio, who com-

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<sup>26</sup> Ibid., 14.

<sup>27</sup> Kendrick, 363; Woodburn, 445.

<sup>28</sup> Ibid., 447.

<sup>29</sup> Ibid., 448.

plained that whenever he took the floor he was subjected to Stevens' caustic criticism, offered a resolution in which the committee was requested to consider again proposing admission to the southern states if they ratified the Fourteenth Amendment.<sup>30</sup> On January 16, Bingham denounced the contention of Stevens and other radicals that Congress was not bound by the terms of the Fourteenth Amendment in making final settlement of the question of reconstruction. He also refused to admit Stevens' conquered province theory.<sup>31</sup> Eldridge, Democrat from Wisconsin, expressed the opinion that it was useless to attempt resistance to a caucus measure of the majority and asserted that it was obviously Stevens' intention to get rid of some of the Constitutional provisions.<sup>32</sup> Hise, of Kentucky, condemned the whole bill as a scheme to destroy the political force and influence the southern states as members of the Union, "devised by the adherents of a party who loudly professed devotion to free government."<sup>33</sup>

On January 24, 1867, Henry J. Raymond made an important speech on the bill. He maintained that if Johnson's policy had been fully and promptly carried out by the Republican party, it would have restored peace and would have, in great measure, settled many of the difficult problems of reconstruction.<sup>34</sup> He felt that in most states the people had not, during the recent campaign, endorsed the basic principles of Stevens' bill. In this statement he referred to the provisions which deprived the southern state

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<sup>30</sup> Ibid., 449.

<sup>31</sup> Globe, 500-505.

<sup>32</sup> Kendrick, 366.

<sup>33</sup> Ibid., 373.

<sup>34</sup> Ibid., 374.

governments of legal authority, the extension of martial law in those sections, the suspension of the writ of habeas corpus, the universal enfranchisement of Negroes, and the partial disfranchisement of the whites. Concerning the two reasons given for abolishing the existing governments in the southern states, namely: their origin and their failure to protect the rights, liberties and property of their citizens, he considered that the states had been formed under as legal a manner as was possible under the circumstances; that "the usual procedure all over the world" was "to recognize de facto governments and respect their authority without too close inquiry into the legal aspect of their origin."<sup>35</sup> Raymond admitted that the existing governments did not protect the lives and liberties of the loyal whites and of the Negroes as fully as they should but expressed doubt that the substitution of military governments would work a very helpful change. He said that if the Freedmen's Bureau, under the authority of the President could not keep order, it was improbable that the army under similar authority would be more successful. He suggested that the punitive section three, which had, in great measure, caused the southern states to reject the Fourteenth Amendment, be stricken out and one denying the right to secession be supplied in its place; and the amendment submitted in that form for their adoption. Further, he said if this were not agreeable to the majority, he would not oppose a resolution proclaiming the rebel states out of the Union and one declaring the Fourteenth Amendment officially adopted when ratified by three-fourths of the loyal states. He asserted that Stevens' first

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<sup>35</sup> Ibid., 375.

<sup>36</sup> Ibid., 376.

bill was far preferable to the second one, which he declared was "the most violent the ingenuity of man could devise."<sup>37</sup>

Woodburn states that Stevens proved more than a match for his opponents at every turn and "paid no attention to the President's spokesman -- Mr. Raymond." Instead, he trusted his Republican colleagues who wished to delay or amend his bill. The sentiment of the country was so decidedly against Johnson that Stevens' taunts always made those who opposed him extremely uncomfortable.<sup>38</sup> After Raymond concluded his speech, Thaddeus Stevens remarked that since there was so much diversity of opinion on his side of the House, he might, on the next day, move to lay the bill on the table. He took no such action, however, but on that day, January 20th, he proposed that if Bingham would withdraw his motion to recommit, he would throw the bill into the committee of the whole so as to allow five minute speeches concerning it. Bingham's refusal caused the radicals to fear that he might be able to muster sufficient strength to carry his motion.<sup>39</sup> On January 28, George W. Julian, an extreme radical and an abolitionist, suggested military governments as the most expedient method of at once providing protection for loyalists and Negroes in the South. Stevens, however, thought it well to test his own strength in both the House and the committee before accepting Julian's suggestion.<sup>40</sup> On the same day, Bingham, with the help of the Democrats, succeeded in getting his motion carried by a vote of

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<sup>37</sup> Woodburn, 467.

<sup>38</sup> Ibid., 468.

<sup>39</sup> Kendrick, 377.

<sup>40</sup> Ibid., 378.

88 yeas and 65 nays, 38 did not vote.<sup>41</sup> During the second session of the 39th Congress, the Joint Committee of Fifteen, which had been reappointed on December 4, 1866, held only two meetings, one on February 4 and another on February 6. Stevens' bill was discussed at the meeting on February 4, but no conclusion was reached.<sup>42</sup> Just before the meeting adjourned, Stevens offered a resolution that reconstruction of the southern states proceed according to the principles laid down in his bill; but when the vote was taken he realized his inability to bring a majority to adopt the principles contained in his bill as a basis for action. He then accepted Julian's idea of enacting a bill to establish military governments in the rebel states and waiting until the assembling of the 40th Congress before attempting further efforts toward reconstruction. He hoped that the 40th Congress would be more radical than the second session of the 39th.<sup>43</sup> Having decided to accept Julian's suggestion, Stevens, with his usual energy, championed a bill introduced by Senator George Williams of Oregon on February 4. Williams had been rated as a conservative but had later become a radical. His bill "to provide for a more efficient government of the insurrectionary states" became the basis of the military section of the Reconstruction Act of March 2, 1867. It is not found in any public document but was printed in full in the New York Herald, February 5, 1867. It contained five sections and provided: that each of the so-called seceded states should constitute a military district subject to military authorities of

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<sup>41</sup> Globe, 817.

<sup>42</sup> Ibid., 915.

<sup>43</sup> Kendrick, 379.

the United States; the General of the Army to assign the command to an officer not under the rank of brigadier-general, who would be furnished with a proper force; and in detail recited the procedure for affording protection of residents of the state and of maintaining order; permitted the issuance of habeas corpus when necessary, in behalf of military prisoners; and, finally, that no sentence affecting the liberty or life of any person should be executed until approved by the officer in command of the proper district.<sup>44</sup> This bill was discussed in committee on February 6, verbally amended, and reported by Thaddeus Stevens to the House on the same day. Dunning explains that the bill consists of two distinct parts: four of its five sections provide for

"the establishment and administration of a rigorous and comprehensive military government throughout the ten states not yet restored to the Union; while the fifth declared that the restoration of the states should be effected only after reorganization on the basis of general Negro enfranchisement and limited rebel disfranchisement."<sup>45</sup>

Garfield is said to have commented that "it was written with an iron pen, made of a bayonet."<sup>46</sup> When he offered the resolution, Stevens remarked that it was "so simple, one night's rest after reading it is enough to digest it."<sup>47</sup> Because of the lateness of the session, Stevens refused the Democratic request that it be postponed until February 11, but consented to allow a reasonable time for the minority discussion. He evidently con-

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<sup>44</sup> Ibid., 380.

<sup>45</sup> Dunning, 93.

<sup>46</sup> Winston, 395.

<sup>47</sup> Ibid., 396.

sidered one day sufficient because he added the statement that he would demand the vote on the next day.<sup>48</sup> Debate on the bill continued late into the afternoon of February 6. Bingham moved to strike out the preamble and insert one he had offered in the committee; also to strike out the word so-called wherever it occurred before the word states; and offered an amendment giving the United States power to issue writs of habeas corpus without any exception for persons indictable and punishable by Federal law. He wanted the preamble changed in order to announce that military rule would continue only until the states accepted the Fourteenth Amendment.<sup>49</sup> Thaddeus Stevens persisted desperately in his attempt to get the bill passed without amendment. On February 8, he moved the previous question but Bingham, assisted by the Democrats, defeated him. For a week the bill was debated in the House.<sup>50</sup> Several amendments were proposed. The chief one was offered by James. G. Blaine on February 12.<sup>51</sup> Any amendment to the bill was utterly distasteful to Stevens. Since the opening of the first session of the 39th Congress he had made no secret of the fact that he advocated hard conditions for the readmission of the seceded states. This he felt was necessary in order to guarantee loyalty to the Union and to safeguard the rights and liberties of loyal whites and Negroes in the South. He feared that any form of amendment would result disastrously for his plans. As early as December 18, 1865, Stevens had proposed that the governments of the seceded states should be territorial, because in territories Congress had

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<sup>48</sup> Kendrick, 380.

<sup>49</sup> Ibid., 393.

<sup>50</sup> Ibid., 397.

<sup>51</sup> Globe, 1182.

power to fix the qualifications of voters; and in territorial legislatures the rebels would mingle with the Negroes, to whom Congress would extend the franchise, and "there learn the principles of freedom and democracy."<sup>52</sup> On December 4, 1866, Broomal, known as a devoted follower of Stevens, introduced into the House a resolution in which the committee was instructed to

"inquire into the expediency of reporting a bill providing territorial governments for the several districts of country within the jurisdiction of the United States, formerly occupied by the once existing states of Virginia, North Carolina, etc. and giving to all male inhabitants, born within the limits of the United States, or duly naturalized, and not participants in the late rebellion, full and equal political rights in such territorial governments."<sup>53</sup>

Blaine's amendment provided that when the rebel states had met the conditions imposed in the Fourteenth Amendment, the preceding sections of the bill proposed by Stevens should "then and thereafter be inoperative in said state."<sup>54</sup> Blaine's purpose was to forestall Stevens' scheme of permitting reconstruction to go over to the 40th Congress, when practically every one expected a more radical program to be carried out. He planned, in case the House became more radical during the 40th Congress, to have the military bill contain this section setting forth the principles upon which the seceded states might be reconstructed. Thus his party associates would have been committed to a fairly conservative program.<sup>55</sup> Bingham and fifty or more conservative Republicans supported Blaine in his attempt.<sup>56</sup> On that

<sup>52</sup> Kendrick, 165; Woodburn, 349.

<sup>53</sup> Globe, 11.

<sup>54</sup> Ibid., 1182-1183.

<sup>55</sup> Kendrick, 397.

<sup>56</sup> Ibid., 398.



same day, February 12, a bill was passed through the House which provided for a territorial form of government for Louisiana where disorder had been most prevalent.<sup>57</sup> This bill had been drawn up by a committee appointed to investigate the New Orleans riot of July 30, 1866, where more than one hundred and fifty persons, mostly Negroes, had been killed or wounded.<sup>58</sup> The conservatives were of the opinion that making an example of Louisiana might influence other rebel states to satisfy the Fourteenth Amendment. The New York Herald of February 12 and 13, 1867 published an editorial expressing this view.<sup>59</sup> On February 13, Stevens made a second unsuccessful attempt to force his bill through the House. Bingham then asked the House to send with the military bill a proclamation that ratification of the Fourteenth Amendment would remove necessity of Federal army protection. Blaine at once moved that his bill be sent to the judiciary with directions that it be reported back with the military bill. He called the previous question and was supported by a majority of only 7 votes.<sup>60</sup> Thadeus Stevens then made a thirty minute speech in which he reproached Congress for failing to protect the loyal people of the South; he used his powers of sarcasm and ridicule on Bingham for defeating his previous bill; he denounced the Blaine amendment as an effort toward "universal amnesty and universal Andy-Johnsonism"; and he made a final appeal to the loyalty of the members of his party. Kendrick comments that this speech is one of the very few ever made in Congress that resulted in the changing of votes. After the speech,

<sup>57</sup> Globe, 1175.

<sup>58</sup> Rhodes, V, 511.

<sup>59</sup> Kendrick, 398.

<sup>60</sup> Ibid., 401.

sixteen Republicans who had voted with Blaine and Bingham to second the previous question now voted with Stevens and nearly all the Democrats voted with him. He triumphed by a vote of 94 to 69.<sup>61</sup> But the next day Williams offered to amend the bill by adding the Blaine amendment. On February 15, however, he withdrew the amendment and explained that he had conferred with certain persons and had found that unless the amendment were removed, the House would not concur. Finally, a committee of seven, with John Sherman as chairman, slightly modified the bill so that it was acceptable to the majority of the Republican senators. Though afterwards known as the Sherman substitute, it was really the Williams military bill with the addition of the slightly changed Blaine amendment.<sup>62</sup> On February 18, Stevens moved that the Senate amendment be concurred in by the House and asked for a committee of conference.<sup>63</sup> The conservatives were in favor of the Senate amendment, while the radicals opposed it. On February 19, a vote was taken and though many Republicans voted in favor of the motion, the Democrats voted solidly with Stevens. His motion for a conference was passed and he, Blaine, and Shellabarger were appointed to represent the House on the committee.<sup>64</sup> That evening the House met in an attempt to decide on a method of procedure. With the aid of the Democrats, Stevens and some of the radicals prevented a vote being taken.<sup>65</sup>

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<sup>61</sup> Ibid., 403.

<sup>62</sup> Globe, 1362 et seq.

<sup>63</sup> Ibid., 1315.

<sup>64</sup> Ibid., 1348.

<sup>65</sup> Ibid., 1356 et seq.

On February 20, Senator Henry Wilson of Massachusetts made a motion that the Senate amendments be concurred in, provided the Senate accept an amendment, as follows:

"No person excluded from the privilege of holding office by the proposed amendment to the Constitution of the United States shall be eligible to election as a member of the convention to frame a constitution for any of the rebel states, nor shall any such person vote for members of such convention."<sup>66</sup>

Representative Shellabarger then offered an additional section to Congress of representatives from the rebel states, any civil governments existing in those states should be considered as only provisional and subject in all respects to the paramount authority of the United States at any time to abolish, modify, control, or supercede them; that only those persons should vote who were so entitled under section five of the act; and no person should be eligible to office who would be disqualified from doing so under the provision of the "said article of said constitutional amendment."<sup>67</sup>

Both the Wilson and the Shellabarger amendments were agreed to and in the amended form the bill passed the House by a vote of 126 to 46. Though the radicals did not win a complete victory, the conservatives were utterly defeated. On February 20, the Senate concurred in the House amendments.<sup>68</sup>

The President might have made use of a pocket veto to defeat this bill. Instead, he sent a message to the House on Saturday afternoon, March 2, 1867 in which he expressed his dissent.<sup>69</sup> Congress was to expire on Monday, March 4 at noon. Stevens realized that no time was to be lost, and at once

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<sup>66</sup> Ibid., 1399.

<sup>67</sup> Ibid., 1400.

<sup>68</sup> Ibid., 1645.

<sup>69</sup> Ibid., 1729.

demanded consideration. He yielded, however, to brief protesting statements from the Democrats.<sup>70</sup> When the Democrats attempted to sustain the veto, Blaine, upon Stevens' request, moved to suspend the rules and the bill was passed by a vote of 135 to 48.<sup>71</sup> The Senate speedily took similar action and the reconstruction act became a law.<sup>72</sup> As it finally passed, its six provisions were those of the original bill for the military governments, except that the commanders of the different departments were to be appointed by the President instead of by the General of the Army; and that no sentence of death should be executed without the approval of the President. It was in essentials, the sum of the measures for which Stevens had worked so long.<sup>73</sup> He was, however, dissatisfied with the way the Senate had treated his bill and complained bitterly of the power of appointment being transferred from General Grant to President Johnson, who "would execute it by the murder of the Union; by despising Congress and flinging into its teeth all it had done."<sup>74</sup>

The Reconstruction Act of March 2, 1867 was amended twice. These amendments were vetoed by the President. To prevent a judicial decision upon the original act or the amendments, Congress provided that no court should have jurisdiction over the same.<sup>75</sup>

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<sup>70</sup> McCall, 291.

<sup>71</sup> Ibid., 292; Kendrick, 414.

<sup>72</sup> McCall, 293.

<sup>73</sup> Ibid., 294.

<sup>74</sup> Winston, 401.

<sup>75</sup> Ibid., 398.

CHAPTER VI. STEVENS' RELATION TO THE IMPEACHMENT OF ANDREW JOHNSON

Stevens' activity in initiating the movement --  
Secures partial support of Senate by advancing  
judicial reasons -- Holds colleagues by appeal  
to partisanship -- Plans proceedings in manner  
to avoid constitutional difficulties -- Chair-  
man of Committee to draw up articles of impeach-  
ment -- The eleventh article.

## CHAPTER VI

### STEVENS RELATION TO THE IMPEACHMENT OF ANDREW JOHNSON

Congress and the President were at daggers' points and had denounced each other openly. Congress had reduced the President's powers to impotency and he, consequently, had no desire to carry out the will of the nation. Instead, he was obstinate and determined to circumvent and annoy the Legislative body whenever possible. Such a situation could not continue.<sup>1</sup> On the same day, March 2, 1867, that the Reconstruction Act was passed, the Tenure of Office Act and Command of the Army Acts were also passed over the President's veto.<sup>2</sup> The Tenure of Office Act took away from him the power of removal of office holders, a power which had been exercised by all preceding presidents of the United States.<sup>3</sup> The Command of the Army Act forbade the President to relieve the General of the Army from command or assign him elsewhere than in Washington except at the general's own request, or with the previous approval of the Senate.<sup>4</sup> The President's position was intolerable.

The movement for impeachment was basically a political issue. This Stevens frankly admitted.<sup>5</sup> He realized that some of the senatorial judges would have to be convinced by purely judicial considerations, and he sought,

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<sup>1</sup> Woodburn, 491.

<sup>2</sup> Winston, 398.

<sup>3</sup> Rhodes, 47.

<sup>4</sup> Dunning, 90.

<sup>5</sup> Woodburn, 492.

in part to present the cause with that end in view;<sup>6</sup> but he also felt it necessary to appeal to the partisanship of his colleagues to secure their votes.<sup>7</sup> Matters were difficult to arrange because "there was not operative any method of impeachment or recall, within the power of the people" for a president who sought to thwart the national ends.<sup>8</sup> The President was sullen. Stevens and his followers decided on a course of action. It seemed to them far preferable to attempt to remove him from office by a two-thirds adverse vote, if not by a majority, in both houses of Congress than to continue to try to get on under the inflexible Constitution; and with this idea in mind, they proceeded.<sup>9</sup> A proposition to impeach the President of high crimes and misdemeanors was pending in the House for more than a year before final decision to do so was reached. In January, 1867, the House instructed its pudiciary committee to investigate the conduct of the President, and accordingly was engaged throughout the session in a search for evidence against him.<sup>10</sup> In June, 1867, the House instructed the same committee to inquire into Johnson's conduct to see if he were guilty of offences that were impeachable under the Constitution.<sup>11</sup> In the closing days of the 39th Congress, the committee reported that there was enough evidence to justify continuance of the investigation though not sufficient ground for impeachment.<sup>12</sup>

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<sup>6</sup> Ibid., 494.

<sup>7</sup> Dunning, 92.

<sup>8</sup> Woodburn, 492.

<sup>9</sup> Ibid., 493.

<sup>10</sup> Dunning, 92.

<sup>11</sup> Woodburn, 494.

<sup>12</sup> Ibid., 495.

When the President, on February 21, 1868, sent to the Senate his veto of resolutions disapproving of the removal of Stanton as Secretary of War and in the message stated that regardless of personal consequences he would not have acted differently, Stevens and his followers realized that public sentiment was sufficiently strong to justify an attempt at impeachment. Congress received the President's message on February 22 and was thrown into an uproar. Covode at once offered impeachment resolutions; and, in two hours, the reconstruction committee appeared in the House and through its spokesman Thaddeus Stevens recommended that

"Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors in office."<sup>13</sup>

Stevens was appointed Chairman of the Committee of seven to draw up articles of impeachment and one of the managers to present the case to the Senate.<sup>14</sup> McCall states that though he was too ill to take the leading part in the trial of the President, Stevens, by sheer force of will, never for a moment relinquished the pursuit of his object. "When he was too weak to walk, he was carried into the Senate chamber, and if his voice failed because of weakness, some one of his fellow managers read his words."<sup>15</sup>

In planning the proceedings, Stevens endeavoured to avoid constitutional difficulties. To sustain impeachment, he held it unnecessary to prove a crime as an indictable offense or any act malum in se. He contended that the impeachment was a remedy for malfeasance in office and was not in-

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<sup>13</sup> Winston, 422.

<sup>14</sup> McCall, 337; Woodburn, 503.

<sup>15</sup> Ibid., 337.



tended as a personal punishment for past offences or future example.<sup>16</sup> Stevens had charged the President with attempting to usurp the powers of other branches of the government; with attempting to obstruct the execution of the law; with bribery; and with "open violation of laws which declare his acts misdemeanors and subject him to fine and imprisonment."<sup>17</sup> Further, he declared that Johnson had, in his last annual message proclaimed to the public that the laws of Congress were not constitutional nor binding on the people; and then asked who could say that "such a man is fit to occupy the executive chair, whose duty it is to inculcate obedience to those very laws, and see that they are faithfully obeyed?"<sup>18</sup> He expressed the opinion that if the President escaped the bare removal from office and did not suffer incarceration in the penitentiary afterward under criminal proceedings, he should thank the weakness or the elemency of Congress and not his own innocence. At the close of Stevens' speech, the clerk read the resolution which provided for impeachment. Stevens called for the vote, which was decided affirmatively 128 to 47 -- 17 not voting.<sup>19</sup> Thaddeus Stevens and John Bingham were appointed a committee of two to inform the Senate of the action of the House. On the following day, February 25, they appeared before the Senate.<sup>20</sup> Sumner, who was present, described Stevens as "looking the ideal Roman, with singular impressiveness, as if he were discharging

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<sup>16</sup> Woodburn, 501.

<sup>17</sup> Globe, 2nd sess., 40th Cong., 1399. February 24, 1868.

<sup>18</sup> Ibid., 1400.

<sup>19</sup> Ibid., 1400.

<sup>20</sup> Woodburn, 503.

a sad duty."<sup>21</sup> Stevens said:

"In the name of the House of Representatives and of all the people of the United States, we do impeach Andrew Johnson, President of the United States, of high crimes and misdemeanors in office; and we further inform the Senate that the House of Representatives will, in due time, exhibit particular articles of impeachment against him and make good the same; and in their name we demand that the Senate take order for the appearance of the same Andrew Johnson to answer said impeachment."

The President of the Senate replied that the Senate would "take order in the premises."<sup>22</sup>

On March 4, the House managers appeared before the Senate. The managers rose and remained standing, with the exception of Stevens, who was too ill to do so, while Bingham read the articles of impeachment.<sup>23</sup> In eleven articles, the President was charged with violating the Tenure of Office Act, in deposing Stanton and appointing Thomas; with violating the Anti-Conspiracy Act of July 31, 1861, in conspiring with Thomas to expel Stanton and to seize the papers and property of the office; with violating the Reconstruction Act of March 2, 1867, in directing that military orders should issue through others than the General of the Army, as in his attempting to induce General Emory to take orders direct from the President; and of committing high crimes and misdemeanors in his attitude toward and denunciation of Congress, in his efforts to bring that body into "disgrace, ridicule, hatred and contempt and to impair and destroy the regard and respect of all the good people of the United States" for Congress.<sup>24</sup>

<sup>21</sup> Rhodes, VI, 111; Winston, 423.

<sup>22</sup> Woodburn, 564.

<sup>23</sup> Woodburn, 505.

<sup>24</sup> Ibid., 505-506.

Winston claims that though there were eleven articles, there was really but one offense -- the removal of Stanton and the appointment of Thomas. The first article charged the removal; the second charged the writing of a letter to Thomas to take possession; the third charged the actual appointment of Thomas; articles four, five, six, seven, and eight are known as the "conspiracy articles," as they charge a conspiracy to do what has already been charged in the first three articles. Article nine charged illegal advice to General Emory. The tenth article, which Butler earnestly urged should be included, charged the President with having, "in a loud voice" delivered objectionable speeches on February 22, 1866, and during his Swing Around the Circle tours.<sup>25</sup> The famous eleventh article, on which the chief hope of conviction rested, was drawn by Stevens.<sup>26</sup> It is known as the "Omnibus Article" -- a combination of all the charges into one article; and has been referred to "as a trick to catch wavering senators."<sup>27</sup> Dunning considers it as strong testimony to Stevens' undiminished shrewdness and intelligence at a time when he was physically near death.<sup>28</sup> The article charged that Johnson, unmindful of his oath and disregarding the Constitution and the laws, declared, in a speech in Washington on July 16, 1866, that the 39th Congress was a Congress of only a part of the people; thereby denying that the legislation enacted by it was valid and obligatory upon him, except in so far as he saw fit to approve it; and also denying the

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<sup>25</sup> Winston, 425.

<sup>26</sup> Ibid., 426; Woodburn, 506.

<sup>27</sup> Ibid., 507.

<sup>28</sup> Dunning, 106.

power of Congress to propose amendments to the Constitution of the United States. The article also charged that the President had attempted to prevent the execution of the Tenure of Office Act.<sup>29</sup> It was decided by the prosecution that, because of its importance, the eleventh article should be presented first. Rhodes' judgment is that Thaddeus Stevens made the ablest argument for the prosecution. He confined himself to his own article and never lost sight of his purpose to secure the doubtful senators. Rhodes wonders whether if Stevens had at the time possessed as much strength as of two years previous, the outcome of the trial would not have been different. He expresses the belief that the management would have been conducted differently; Stevens would have been chairman of the managers; and he would have been able to exert sufficient strength and influence to obtain conviction.<sup>30</sup>

Stevens opened his speech by stating his intention to discuss only a single article -- the one that was finally adopted at his earnest solicitation and which, if proved, he considered would be sufficient evidence for conviction of the President and for his removal from office; which was the only legitimate object for which this impeachment could be instituted. He then proceeded to accuse Johnson of violating the laws of the United States and of usurping the powers of Congress; and suggested that if the President were unwilling to execute the laws passed by Congress and unrepealed, he should "resign from the office which was thrown upon him by a horrible

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<sup>29</sup> Globe, 4, 5; Woodburn, 506, 507.

<sup>30</sup> Rhodes, 135.

convulsion -- and retire to his village obscurity."<sup>31</sup> He arraigned the President as "the first great political malefactor . . . possessed by the same motives that made the angels fall."<sup>32</sup> He termed him the "offspring of assassination" and declared that any senator who voted to acquit would be "tortured on the gibbet of everlasting obloquy."<sup>33</sup> When he became too weak to read or stand, he handed his manuscript to Butler, who read it for him.<sup>34</sup> It appears from Stevens' speech that he expected the President to be convicted. As more than two-thirds of the senators had gone on record as condemning Johnson for removing Stanton, this is not surprising. It was not expected that so many Republicans would desert their party by voting for acquittal. On April 20, 1868, Greely wrote to Stevens:

"Keep us posted in the Tribune office. I do not fear the verdict, but greatly desire to make the majority on the first vote as strong as possible."<sup>35</sup>

Stevens asked permission of the Chief Justice for his colleagues to have opportunity to speak on the eleventh article. The request was granted.<sup>36</sup> On the test vote, on the eleventh article, seven Republican senators supported the President, thirty-five senators voted for conviction, and nineteen for acquittal. The President was acquitted by a margin of one vote. The prosecution was unable to muster any greater strength on two subsequent votes, and on May 26, 1868, the Senate as a Court of Impeachment adjourned

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<sup>31</sup> Globe, 320-324.

<sup>32</sup> Winston, 423.

<sup>33</sup> Ibid., 447.

<sup>34</sup> Ibid., 448.

<sup>35</sup> Woodburn, 515.

<sup>36</sup> Globe, 248.

to meet no more. Thaddeus Stevens sincerely believed that the welfare of the country demanded that the President be removed from office and that Johnson deserved the degradation. There can be no doubt that the acquittal was a bitter disappointment to him.<sup>37</sup>

In considering Thaddeus Stevens' relation to reconstruction, the main idea should be an attempt to evaluate his contribution through speech, influence, policy, and actual concrete achievements to the welfare of the country in that divided and distressing period in which he labored. Even a cursory glance at the list of important measures in which he undoubtedly took the difficult leading part, will bear witness to his importance and value. His many detractors have pictured him as a man of misanthropic spirit and bitter invective who took keen delight in inflicting injury on his opposers. This estimate may reasonably be considered an exaggeration. Though he may have indulged in the wrath and bitterness brought about by the desperate condition which existed as a result of the war and the necessity for recovery, history bears record of the service he rendered to his country through his comprehension of what war needed, his courage, firmness, and tenacity. His keenness of intellect and clearness of vision were valuable aids to his efforts for democracy.

"To secure civil and political justice for all men alike . . . was the permanent cause involved in reconstruction and Stevens represented that cause. To that end he would have remodelled the Constitution in whatever way he thought best to abolish and uproot slavery and to establish a race-wide democracy in America."<sup>38</sup>

<sup>37</sup> Woodburn, 516.

<sup>38</sup> Ibid., 448.

Stevens was a practical legislator and statesman; he cared nothing for show or parade but clung doggedly to his principles which he considered necessary to justice. He participated actively in every important measure for reconstruction, and is generally considered a greater influence than any other man of the period in helping to establish a sane basis for recovery. His main object was to elevate his country and aid the oppressed, an object which was accomplished to a very gratifying extent before his death in Washington on August 11, 1868. Mr. Farney, in The Philadelphia Press of August 12, 1868 spoke of Stevens as

"the ablest parliamentary leader of his time."<sup>39</sup>  
Winston states that Stevens fought every inch of ground for the Negro, taking what he could get. As soon as one rampart was scaled, Stevens moved to the next. First, freedom for the Negro; next, protection through the Bureau; then Civil Rights, to be followed by Military Rule, the Fourteenth Amendment and the Fifteenth --, and if he would have had his way, confiscation. Forward and ever forward, the heroic old man pressed."<sup>40</sup>

Thaddeus Stevens found cause against President Johnson in his whole course of conduct in reconstruction, because his persistent usurpation of the powers that belonged to Congress.<sup>41</sup> The final and one of the most important reasons for the break with the President came from the desire of Stevens and his radical colleagues to readjust the distribution of political power among the states. Stevens believed that the slave states had enjoyed an unfair share of political power from the foundation of the government and that Johnson's reconstruction would aggravate the evil. He very frankly

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<sup>39</sup> Ibid., 608.

<sup>40</sup> Winston, 318.

<sup>41</sup> Woodburn, 502.

avowed a desire for party ascendancy as part of his motive in his contention for a change in the representation of the southern states.<sup>42</sup> Stevens openly declared that the movement for the removal of Johnson was a political one. He and his colleagues undertook the impeachment with the idea of securing responsible democratic government.<sup>43</sup> Though bitterly disappointed at the outcome, Stevens, accepted the acquittal as he did other disappointments -- grimly, but without a whine.

Woodburn says of Stevens:

"Before all else he stood for liberty and the equal rights of men. . . . No truer democrat, no abler advocate of popular rights ever stood in American legislative halls."<sup>44</sup>

Perhaps no expression more aptly portrays Thaddeus Stevens' dominant ideal than his own words:

"There may be, and every hour shows around me, fanatics in the cause of false liberty -- that infamous liberty which justifies human bondage; that liberty whose cornerstone is slavery. But these can be no fanaticism. However high the enthusiasm, in the cause of rational, universal liberty -- the liberty of the Declaration of Independence."<sup>45</sup>

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<sup>42</sup> Ibid., 350.

<sup>43</sup> Ibid., 494.

<sup>44</sup> Ibid., 610.

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