DISUNION AND RESTORATION IN TENNESSEE

BY

JOHN RANDOLPH NEAL, M.A., LL.B.

SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF DOCTOR OF PHILOSOPHY
IN THE
FACULTY OF POLITICAL SCIENCE
COLUMBIA UNIVERSITY

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CHAPTER I

SEPARATION

THE vote of Tennessee in the presidential election of 1860 shows conclusively that at that time a majority of her citizens did not hold disunion sentiments. Her electoral vote was cast for John Bell and Edward Everett, who represented, as their platform expressed it, "no political principle other than the Constitution of the country, the Union of the States, and the enforcement of the laws."

The first step toward secession was not the result of popular initiative, but was mainly due to the efforts of the Governor of the State, Isham G. Harris. Governor Harris had entered public life just after the rupture between Andrew Jackson and Hugh Lawson White, which had resulted in the formation, in Tennessee, of the Whig party. For thirty years the Whigs and Democrats contended for the control of the State. They were so equally matched that victory often turned upon the individual strength of the candidate. This resulted in the development of a class of public men who possessed, in a high degree, the usually divergent abilities of public speakers and party leaders. From this school of practical politics were graduated James K. Polk, Cave Johnson, Felix Grundy, John Bell, and Andrew Johnson.

The contest between the Whigs and Democrats, which

was at first merely a personal quarrel, soon ripened into a division along true party lines. The Democrats, after the death of Andrew Jackson, joined the national Democratic party in its struggle for the perpetuation and extension of slavery. The Whigs on the other hand shared in the broad policies and national aspirations of the national Whig party.

Governor Harris had at the very beginning of his career allied himself with the Democrats. As early as 1849, he had been elected to Congress, where he became conspicuous for his advocacy of extreme State rights. In 1857 he defeated Neil S. Brown for governor, and was re-elected in 1859. It was not difficult to predict what his action would be in the crisis of 1860. Immediately after the election of President Lincoln, he issued a call for an extra session of the Legislature. It convened on the seventh day of January, and on the same day he sent in his message. This message is worthy of study, as it has been pronounced by a distinguished writer to be "the ablest and most succinct as well as the most intelligent presentation and justification of the reasons for the action of the seceding States."[1] It began with the following description of the crisis confronting the State: "The long, systematic, and wanton agitation of the slavery question, with actual and threatened aggressions of the Northern States and a portion of their people upon the well-defined constitutional rights of the Southern citizens, the rapid increase of a purely sectional party, whose bond of union is uncompromising hostility to the rights and institutions of the fifteen Southern States, have produced a condition in the affairs of the country unparalleled in the history of the past, resulting already in the withdrawal from the Confederacy of one of the sovereignties which compose it, while others are rapidly preparing to move in the same direction."[2]

[1] Cox: *Three Decades of Federal Legislation.*

[2] Acts of Tennessee, Extra Session, 1861, pp. 1 to 13.

This opening statement was followed by an historical review in which was traced the growth of the Republican party. The offences it had committed against the Southern States were then enumerated. Among other things, he said :

" It has sought to appropriate to itself, and to exclude the slaveholders from, the territory acquired by the common blood and treasure of all. It has, through the instrumentality of the Emigrants' Aid Society under State patronage, flooded the territories with its minions armed with Sharp's rifles and bowie knives, seeking thus to accomplish by intimidation, violence, and murder what it could not do by constitutional means.

" It claimed the constitutional right to abolish slavery in the District of Columbia, the forts, arsenals, dock-yards, and other places ceded to the United States within the bounds of the slaveholding States. It proposed a prohibition of the slave-trade between the States, thereby crowding the slaves together, and preventing the exit south until they became unprofitable to such an extent that it would force the owner finally to abandon them in self-defence. It has, by the deliberate legislative enactments of a large majority of the Northern States, openly and flagrantly nullified the clause of the Constitution which provided for the return of fugitive slaves.

" It has, through the executive authority of the States, denied the extradition of murderers and marauders.

" It obtained its own compromise in the Constitution to continue the importation of slaves, and now sets up a higher law than the Constitution to destroy the property imported and sold to us by their fathers.

" It has caused the murder of owners in the pursuit of the fugitive slave, and shielded from punishment the murderers.

" It has on many occasions sent its emissaries into the Southern States to corrupt our slaves, induce them to run off, and excite them to insurrection. It has by its John Brown and

Montgomery raids invaded sovereign States and murdered peaceful citizens. It has justified and exalted to highest honors of admiration the horrid murders, arsons, and rapines of the John Brown raid, and canonized the felons as saints and martyrs.

"It has burned the towns, poisoned the cattle, and conspired with the slaves to depopulate Northern Texas. In has through certain leaders proclaimed to the slaves the terrible motto: 'Alarm to the sleep, fire to the dwellings, and poison to the food and water of the slaveholders.'

"It has repudiated the decision of the Supreme Court.

"It has assailed our rights, guaranteed by the plainest provisions of the Constitution, from the floor of each House of Congress, the pulpit, the hustings, the schoolroom, their State Legislatures, and through the public press, dividing churches, and disrupting political parties and civil government."

The party that had committed the offences enumerated was in possession of the House of Representatives, and had elected one of its leaders to the presidency, and in the progress of events the Supreme Court and Senate must also pass into its hands. With such a party in power, Governor Harris contended that the Union could be preserved only on the condition that certain amendments to the Constitution should be adopted, which would put slavery beyond its attacks.

The amendments he suggested were:

1. Establish a line upon the northern boundary of the present slave States, extend it through the territories to the Pacific Ocean, upon such parallel of latitude as will divide them equitably between North and South, expressly providing that all territory now owned, or that may be hereafter acquired, north of said line shall be forever free, and south of it forever slave.

2. In addition to the fugitive-slave clause, provide, that,

whenever a slave has been demanded of the executive authority of the State to which he has fled, and is not delivered, and the owner permitted to carry him out of the State in peace, the State so failing to deliver shall pay to the owner double the value of such slave, and secure his right of action in the Supreme Court.

3. Provide for the protection of the owner in the peaceable possession of his slave while in transition or temporarily sojourning in any of the States of the Confederacy, and, in the event of the slave's escaping or being taken from the owner, require the State to return, or account for, him as in the case of a fugitive.

4. Especially prohibit Congress from abolishing slavery in the District of Columbia, in any dock-yard, navy-yard, arsenal, or any district of any character whatever, within the limits of any slave State.

5. Provide that these amendments shall never be changed except by consent of all the slave States.

With these amendments to the Constitution, Governor Harris said that he could feel that the rights of the Southern States were reasonably secure, not only in theory, but in fact, and should indulge the hope of living in the Union in peace. "If the non-slaveholding States refuse to comply with a demand so just and reasonable; refuse to abandon at once and forever their unjust war upon us, our institutions, and our rights; refuse, as they have heretofore done to perform, in good faith, the obligations of the compact of the Union, much as we appreciate the power, prosperity, and glory of this government, deeply as we deplore the existence of the causes which have already driven one State out of the Union, much as we regret the imperative necessity which they have wantonly and wickedly forced upon us, every consideration of self-preservation and self-respect requires that we should assert and maintain our equality in the Union, or our independence out of it."

The message closed with the following recommendation to the Legislature: "I recommend that you provide by law for submitting to the people of the State the question of Convention or No Convention; and also the election of delegates by the people to meet in State Convention at the Capitol at Nashville, at the earliest day practicable, to take into consideration our federal relations, and determine what action shall be taken by the State of Tennessee for the security of the rights and the peace of her citizens. This will place the whole matter in the hands of the people, for them, in their sovereignty, to determine how far their rights have been violated, the character of the redress or guaranty they will demand, or the action they will take for their present and future security."

The Legislature proceeded without delay to put into effect the recommendations contained in Governor Harris's message. On January 19th it passed an act known as the Convention Bill,[1] which provided for submitting the question of holding a convention to the vote of the people. The convention was to take into consideration the relation between the government of the United States and the people of the State, and was to have the power to adopt any measures for vindicating the sovereignty of the State and the people it saw fit.

Only a few days intervened between the passage of the Convention Bill and the day appointed for taking the popular vote; nevertheless, an exciting canvass of the State ensued. The people came together in vast crowds to hear the question debated. The Whig leaders were almost unanimous in their opposition. They were joined by the Democrats of East Tennessee. The vote was taken on the fifth of February, 1861. The result was: 24,749 for the Convention; and, 91,803 against it.

This defeat put a stop for the moment to all official

[1] Acts of Tennessee, Extra Session, 1861, p. 14.

action, as the Legislature had adjourned, but the public agitation and discussion continued. The disunion sentiment began to grow very rapidly as a result of events which were transpiring outside the State. Amid the intense excitement which followed the taking of Fort Sumter, Governor Harris issued a call for a second extra session of the Legislature. On the 18th of April he had replied to President Lincoln's call for troops: "Tennessee will not furnish a single man for coercion, but fifty thousand, if necessary, for the defence of our rights and those of our Southern brothers."

The Legislature convened on the twenty-seventh of April. The public were excluded from its meeting, and its members were pledged to secrecy. The session opened with the reading of the gubernatorial message,[1] which asserted that the President of the United States had wantonly inaugurated an internecine war upon the people of the slave States. "This war," he said, "is likely to assume an importance, nearly, if not equal to the struggle of our revolutionary fathers in their patriotic efforts to resist usurpations and throw off the tyrannical yoke of the British Government.

"This declaration of war upon the South has virtually dissolved the Union. It will be idle to speak of ourselves any longer as members of the Federal Union; and it is believed by many whose opinions are entitled to the highest respect, that, by reason of the subversion of the Constitution by the authorities in power, inaugurating a revolution between the States thereof, each and every individual is already released from his obligations to that government; yet, as best comports with the dignity of the subject, and also from due regard to those who may hold a different opinion—and further still, that all the world may be advised of our action,—I respectfully recommend that our connections with the Federal Union be formally annulled in such manner as shall involve the highest exercise of the sovereign

[1] Acts of Tennessee, 2d Extra Session, 1861, pp. 1 to 11.

authority of the people of the State and best secure that harmony, so much to be desired, in times like the present, in questions of detail. The speediest method of accomplishing this will be the perfecting of an ordinance by the Legislature formally declaring the independence of the State of Tennessee of the Federal Union, renouncing its authority, and resuming each and every function belonging to a separate sovereignty; and said ordinance when perfected should be submitted to a vote of the people to be by them adopted or rejected. Under existing circumstances I can see no propriety in encumbering the people of the State with the election of delegates, to do that which is in our power to enable them to do directly for themselves. The most direct as well as the highest act of sovereignty, according to our theory, is that by which the people vote, not merely for men, but for measures submitted for their approval or rejection. Since it is only the voice of the people that is to be heard, there is no reason why they may not as readily and effectively express themselves upon an ordinance framed and submitted to them by the Legislature as if submitted by a convention."

The Legislature was as eager as before to execute the will of the Governor. It embodied his recommendations in an act passed May 6, 1861.[1] This act contained two important provisions. The first was:

"Declaration of Independence and Ordinance dissolving the federal relations between the State of Tennessee and the United States of America.

We the people of the State of Tennessee, waiving any expression of opinion as to the abstract doctrine of secession, but asserting the right, as a free and independent people, to alter, reform, or abolish our form of government in such manner as we think proper, do ordain and declare, that all the laws and ordinances by which the State of Tennessee

[1] Acts of Tennessee, 2d Extra Session, 1861, p. 13.

became a member of the Federal Union of the United States of America are hereby abrogated and annulled, and that all obligation on our part be withdrawn therefrom; and we do hereby resume all the rights, functions, and powers which by any of said laws and ordinances were conveyed to the Government of the United States, and absolve ourselves from all obligations, restraints, duties, incurred thereto; and do hereby henceforth become a free, sovereign, and independent State."

This ordinance was to be submitted to a direct vote of the people. Two sets of tickets were to be prepared; one set marked Separation, the other Non-Separation. Those favoring the ordinance were to vote the former ticket, those opposed, the latter. The act of May 6th further provided for the submission at the same election of the question as to whether Tennessee, if it severed its relations with the Union, should join the Confederacy. This question was also embodied in the form of an Ordinance.

But the Governor and the Legislature did not wait for the popular verdict upon these Ordinances. As early as May 7th, they extended an invitation to the Confederacy to select Nashville as its capital city. A few days later a still more extraordinary step was taken. Governor Harris, acting under a joint resolution of the Legislature, appointed three commissioners to negotiate a military league with the Confederate authorities. These commissioners, representing the State of Tennessee, and Mr. Henry W. Hilliard, an agent of the Confederacy, drew up the following agreement:

"Convention between the State of Tennessee and Confederate States of America.[1]

"The State of Tennessee, looking to a speedy admission into the Confederacy established by the Confederate States of America, in accordance with the Constitution for the Provisional Government of said States, enters into the fol-

[1] Acts of Tennessee, 2d Extra Session, 1861, p. 19.

lowing temporary Convention, Agreement, and Military League with the Confederate States, for the purpose of meeting pressing exigencies affecting common rights, interests, and safety of said State and said Confederacy.

"First. Until the said State shall become a member of said Confederacy, according to the constitutions of both powers, the whole military force and military operations, offensive and defensive, of said State in the impending conflict with the United States, shall be under the chief control and direction of the President of the Confederate States, upon the same basis, principle, and footing as if said State were now during the interval a member of said Confederacy, said force, together with that of the Confederate States, to be employed in common defence.

"Secondly. The State of Tennessee will, upon becoming a member of said Confederacy under the permanent Constitution of said Confederate States, if the same shall ever occur, turn over to the Confederate States all the public property acquired from the United States on the same terms as the other States of said Confederacy have done in like case."

This agreement was laid before the Legislature in a special message, and almost unanimously ratified. Its provisions were promptly executed. The vote of the people upon the Declaration of Independence and the Ordinance adopting the Provisional Constitution of the Confederacy did not occur till the eighth of June. The result of the vote, as shown by the official returns, was as follows:

	Separation.	No Separation.
East Tennessee.....	14,780	32,923
Middle Tennessee.....	58,265	7,956
West Tennessee.....	29,127	6,117
Camps.....	6,246	
Total.....	108,418	46,996

	Representation.	No Representation.
East Tennessee.....	14,061	32,962
Middle Tennessee.....	58,198	8,298
West Tennessee.....	28,912	6,104
Camps.....	6,340	
Total.....	107,511	47,364

Immediately after the election, Gov. Harris issued a proclamation announcing Tennessee's withdrawal from the Union. This was followed by the proclamation of Jefferson Davis, officially declaring that Tennessee had become a member of the Confederacy. On the first of August the State adopted the permanent Confederate Constitution by vote of 83,133 for, 30,357 against.

Nothing now remained to complete Tennessee's absorption into the Confederacy but the election of representatives to the Confederate Congress. In October, the Legislature selected Langdon C. Haynes and Gustavus Henry as Confederate Senators. Haynes was a distinguished Democrat of East Tennessee, while Henry was a Whig. Representatives to the Lower House were chosen by a vote of the people. Here again the Whigs and Democrats were equally represented.

CHAPTER II

RESPONSIBILITY FOR SEPARATION

JUST as radical differences of opinion have existed as to the parties responsible for the whole secession movement, so the action of Tennessee has been variously interpreted. A number of writers have contended that the majority of her citizens were never in favor of secession, and it was only a *coup d' état* of Governor Harris that carried the State into the Confederacy. This view is a survival of the opinion once so widely prevalent in the North that the Civil War was the result of a conspiracy of a few ambitious Southern politicians, who tricked the mass of the Southern people into a war which never had their genuine approval.

It must be confessed that at first view the mode of Tennessee's withdrawal gives some countenance to this theory. In February, 1861, she had placed her disapproval upon secession by voting down a proposition to call a convention. Instead of yielding to this mandate of the people, Governor Harris and the Legislature had entered into a military league with the Confederate authorities, and having thus surrendered the real control of the State, they again went through the form of appealing to a plebiscite for approval of their action. Nevertheless, we are confident that an unprejudiced examination of these events will show that Tennessee, with the exception of the eastern part of the State, joined the Confederacy as willingly as South Carolina or Mississippi.

In the first place, these writers have made the mistake of classing Tennessee among the border States. Mr. Wilson in his *History of the Slave Power* says: "Exactly why

Tennessee should have been taken out of the Union, while Maryland, Kentucky, and Missouri were prevented from going, no man is wise enough to say. At least, none but general reasons can be given. Exactly why the conspirators were foiled in one case and not in the other, exactly by whom the current of treason was checked and turned in the one and not in the other, the wisest can only conjecture."

The answer to the problem which Mr. Wilson found so difficult to solve lies in the fact that conditions in Tennessee were in no wise similar to those in Maryland, Kentucky, and Missouri. These border States were not distinctly slave States. In all of them the institution of slavery existed, but their industrial system was not based upon it. This arose largely from the fact that cotton was not their chief staple. Tennessee, on the other hand, was a great cotton-producing State. According to the census of 1860, her annual product was 296,465 bales of 400 lbs. each. Her interest was therefore identical with the extreme Southern States. If there were to be two republics side by side, one free and the other slave, both sentiment and interest apparently demanded that Tennessee should cast her lot with the latter.

When the vote of February was taken she was confronted by no such dilemma. At that time, the Confederacy had not yet been organized, and it was by no means clear that war would occur. In June, conditions had entirely changed. The Confederacy was an established fact, and actual hostilities had commenced. Neither side would permit Tennessee to occupy a neutral position. She must fight either for or against the South.

This change in the issues is clearly shown in the two messages of Governor Harris. In his message of January 7th, he had sought to establish the right of secession, and justify its present or immediate assertion. But these principles had found no support in the Whig party. Their opposition defeated the proposal for a convention. The

keynote to his second message is found in the following passage: "Whatever differences may have heretofore existed amongst us growing out of party divisions, as to the constitutional right of secession as a remedy against usurpations, all admit the moral right asserted by our fathers to resist wrong and to maintain their liberties by whatever means necessary." This was a direct appeal to the right of revolution, and it found as ready a response among the Whigs as the Democrats. It was therefore this change in the issue, and not coercive means adopted by Governor Harris, that turned the tide toward disunion.

The recognized leader of the Whig party was John Bell. Throughout his long career in the service of the national government, he had consistently opposed the doctrine of secession. In the presidential election of 1860, he, even more than Mr. Lincoln, was the Union candidate. When the question of holding a convention was submitted to a vote of the people, he vigorously opposed it. In this opposition he was joined by Neil S. Brown, Cave Johnson, Ewing, and other distinguished Whig politicians. It was due to their efforts that the Convention proposal was defeated. The vote against the Convention was 91,803. This represented the entire Whig party, and the Democrats of East Tennessee. The votes cast for the Convention came almost wholly from the Democrats of Middle and West Tennessee. In short, the election of February was a division along party lines. Its result was simply an indication that the Whig party of Tennessee was still opposed to the doctrine of secession.

In June, party lines had been obliterated. For only a few weeks elapsed after the defeat of the Convention, till a majority of the Whig leaders, either in public addresses or through the public press, counselled withdrawal from the Union. The contest now became sectional; it was East Tennessee against Middle Tennessee and West Tennessee.

Governor Harris, in his negotiations with the Confederate authorities, was counselled and supported by both Whigs and Democrats. Although the unfavorable verdict of the people upon secession had not been formally reversed, he was conscious that a real change had taken place in their sentiments, and that he was, in fact, executing their will by concluding a military league with the Confederacy.

CHAPTER III

LOYALTY OF EAST TENNESSEE

WHILE we have attempted to show the untenable position of those who maintain that the majority of the people of Tennessee were opposed to separation and it was only a *coup d'état* of Governor Harris that carried the State into the Confederacy, it is, however, true that a great number of her inhabitants did resist withdrawal and remain openly loyal. This was especially the case with East Tennessee. Her persistent loyalty is a striking illustration of the physical conditions and causes which lay behind the Civil War. Tennessee had been settled by a common stock of pioneers from North Carolina. Many of these, attracted by the beautiful scenery and genial climate, had found homes east of the Cumberland Mountains, while others had crossed the mountains and taken possession of the rich tablelands and the alluvial bottoms of Middle and West Tennessee. When the State was admitted into the Union, in 1796, her population was homogeneous. The institution of slavery existed in all sections of the State.

In West and Middle Tennessee, where the soil and climate were suitable for raising cotton, slave labor was very profitable. In East Tennessee, the poor upland farms scarcely yielded a return to white labor. As the result of this difference in natural conditions, slavery flourished in West and Middle Tennessee, but in East Tennessee, by 1860, it had become almost extinct, except upon the rich plantations that bordered the Tennessee River. The efforts to form a Confederacy based upon slavery found, therefore, no support among the inhabitants of East Tennessee. Their interests

and sympathy were with the free States of the North, and they rejected by a vote of two to one every proposal looking toward separation.

In the eyes of the nation, Andrew Johnson stood as the representative of East Tennessee loyalty. Upon the floor of the United States Senate he denounced the withdrawal of the Southern members as treason, and refused to vacate his own seat even after Tennessee had been proclaimed by Jefferson Davis a part of the Confederacy.

Next to Johnson, the most prominent Union man was W. G. Brownlow, the editor of the *Knoxville Whig*. Mr. Brownlow is in many respects the most unique figure in the history of Tennessee. He commenced life as a carpenter's apprentice, but after serving his apprenticeship he entered the Methodist ministry and travelled as a circuit rider for ten years without intermission. His love of controversy led him into most of the political and religious discussions of the day, and gained for him the name of the "Fighting Parson." About 1835 he became the editor and publisher of a Whig newspaper, which rapidly gained a larger circulation than any other political paper in the State.

In the presidential election of 1860 Mr. Brownlow supported Bell and Everett. After the election his voice was on the side of peaceful acquiescence in the results. In vigorous editorials he denounced the sentiments expressed in the message of Governor Harris to the extra session of the Legislature. After the passage of the Convention Bill he joined several prominent citizens in issuing a call for an "East Tennessee Convention." Every county in East Tennessee except two responded to the call. The Convention assembled at Knoxville, on the 13th of May, 1861. The delegates present numbered four hundred and sixty-nine, and represented twenty-eight counties. Hon. Thos. A. R. Nelson was elected chairman. On motion, he appointed a committee to prepare and report business for the Convention.

This committee drew up an address to the people, which was in part as follows:[1]

"Our country is at this moment in a most deplorable condition. The Constitution of the United States has been openly contravened and set at defiance, while that of our own State has shared no better fate, and by the sworn representatives of the people has been utterly disregarded. In this calamitous state of affairs, when the liberties of the people are so imperilled and their most valued rights endangered, it behooves them, in their primary meetings and in all their other accustomed modes, to assemble, consult calmly as to their safety, and with firmness to give expressions to their opinions and convictions of right.

"We, therefore, the delegates here assembled, representing and reflecting, as we verily believe, the opinions and wishes of a large majority of the people of East Tennessee, do resolve and declare;

"That the evils which now afflict our beloved country, in our opinion, are the legitimate offspring of the ruinous and heretical doctrine of secession; and that the people of East Tennessee have ever been, and we believe still are, opposed to it by a very large majority. That while the country is now upon the very threshold of a most ruinous and desolating Civil War, it may with truth be said, and we protest before God, that the people, so far as we can see, have done nothing to produce it. That the people of Tennessee, when the question was submitted to them in February last, decided by an overwhelming majority that the relations of the State towards the Federal Government should not be changed; thereby expressing their preference for the Union and the Constitution under which they had lived prosperously and happily, and ignoring in the most emphatic manner the idea that they had been oppressed by the General Government in any of its acts, legislative, executive,or judicial.

[1] Hume's, *Loyal Mountaineers of Tennessee.*

"That in view of a so decided expression of the will of the people, in whom all power is inherent and on whose authority all free governments are founded, and in the honest conviction that nothing has transpired since that time which should change that deliberate judgment of the people, we have contemplated with peculiar emotions the pertinacity with which those in authority have labored to over-ride the judgment of the people and to bring about the very result which the people themselves had so overwhelmingly condemned.

"That the Legislative Assembly is but the creature of the Constitution of the State, and has no power to enact any laws or to perform any act of sovereignty, except such as may be authorized by that instrument: and believing, as we do, that in their recent legislation, the General Assembly have disregarded the rights of the people and transcended their own legitimate powers, we feel constrained, and we invoke the people throughout the State, as they value their liberties, to visit that hasty, unconsiderate, and unconstitutional legislation with a decided rebuke, by voting on the eighth day of next month against both the Act of Secession and that of Union with the Confederate States.

"That the Legislature of the State, without having first obtained the consent of the people, had no authority to enter a 'Military League' with the 'Confederate States' against the General Government, and by so doing to put the State of Tennessee in hostile array against the Government of which it then was and still is a member. Such legislation is in advance of the expressed will of the people to change their governmental relations, was an act of usurpation, and should be visited with the severest condemnation of the people."

This report was unanimously adopted by the Convention and ordered to be printed, so that it might be circulated among the voters of the State. Before the Convention ad-

journed it was addressed by Andrew Johnson. According to a contemporary report, "he spoke for three hours and commanded earnest attention throughout his entire speech."

In the election of June 8th, the vote of East Tennessee stood: 14,780, separation; 39,923, no separation; 14,601, representation; 32,962, no representation.

Nine days after the election, a second Convention of Union men assembled at Greenville. Two hundred and ninety-nine delegates were present. Many of them were in favor of forming at once a Provisional Government and organizing an army, but after a heated discussion more moderate counsel prevailed. A Declaration of Grievances was drawn up by the same committee that had prepared the address to the people adopted by the Knoxville Convention. A new committee was appointed to prepare and present a memorial to the State Legislature, asking its consent to the formation of a new State to be composed of East Tennessee and such counties in Middle Tennessee as desired to coöperate to that end. But before this committee had an opportunity to present the memorial to the Legislature the Confederate Government had put it beyond the power of Tennessee to act in the matter by organizing East Tennessee into a military department, and placing General Zolicoffer in supreme command. His presence in Knoxville with several regiments of soldiers prevented any further steps towards the formation of a new State hostile to the Confederacy.

There was at first no disposition on the part of the Confederate authorities to deal harshly with the loyal inhabitants of East Tennessee, or to coerce them into the Confederate army. They were allowed to remain undisturbed in their ordinary occupations. The general leniency with which they were treated is shown by the fact that Mr. Brownlow was allowed to continue the publication of the *Knoxville Whig*, although every issue contained editorials denouncing the action of Governor Harris and the Legisla-

ture as treason and rebellion. This peaceful policy was rudely disturbed by an act of the Union men themselves. On the night of the eighth of November, an organized conspiracy was partially carried out by the bands of Union men, to burn the bridges of the East Tennessee, Virginia, and Georgia Railway. The bridges over the Hiwassee River, Lick Creek, and three other streams were destroyed. That one over the Holston River at Strawberry Plains was saved by the bravery of the watchmen.

This attempt at bridge-burning created the utmost alarm and excitement. The East Tennessee, Virginia, and Georgia Railway was the main artery which connected Richmond with the southwest. Thousand of troops were being hurried over it daily in order to reach Richmond in time to defend it from McClellan's advances. The road traversed the whole eastern part of the State, and on account of its extent could not be properly patrolled. Extraordinary measures must thereupon be resorted to, in order to keep open this important line of communication, and protect the lives of the soldiers from the terrible disaster which would have resulted from the secret destruction of the bridges.

On the 25th of November, the Confederate Secretary of War, Mr. Benjamin, sent the following orders to Colonel Wood, who was in command of the troops at Knoxville:

"All such as can be identified in having been engaged in bridge-burning are to be tried summarily by drum-head court-martial, and if found guilty, executed on the spot by hanging. It would be well to leave their bodies hanging in the vicinity of the burned bridges."

This order was vigorously executed. A number of persons suspected of complicity in the bridge-burning were seized, and after a summary trial were executed in the manner suggested by the Secretary of War. Martial law was proclaimed, and the meetings of Union men forcibly dispersed.

As a result of these measures there now began a general exodus of the able-bodied Union men. In small bands they crossed over the mountains into Kentucky. Many of them joined the Federal army, and rendered valuable service. Others formed camps safely within the Union lines, and quietly awaited the termination of the war. Their most prominent leaders made tours of the Northern cities, and raised funds for their support. Boston alone contributed over one hundred thousand dollars to this purpose.[1] Vast crowds listened to the eloquent appeals of these exiled loyalists, and the impression became general in the North that the Southern authorities were treating the loyal mountaineers of East Tennessee with the most savage cruelty. Edward Everett, in a brilliant oration, compared them with followers of William Tell and the slaughtered saints of Piedmont.

The sacrifices and sufferings of the loyal inhabitants of East Tennessee were indeed very great, but there is no evidence that they were treated by the Confederacy in any manner not necessary and justified by the usages of war. After the failure of its conciliatory policy, the Confederacy either had to permit the erection of a hostile State within the heart of its territory, or coerce the loyalists into submission. It naturally adopted the latter alternative. It is frequently stated that in thus adopting coercive methods it acted inconsistently with the principles under which it withdrew from the Union. Mr. Everett, in the same speech quoted above, said: "One would suppose that under the usurped rule of men who profess to go to war for self-government and State rights, the people of East Tennessee, if for any reason they saw fit to do so, had a right to burn their own bridges."

The absurdity of such statements lies in the fact that they confuse the denial of coercive powers to federal government,

[1] See Everett's "Account of the Fund for the Relief of East Tennessee."

with the denial of coercive powers to all government. The first is State rights, but the second is anarchy. It was in perfect harmony with the Southern theory of State sovereignty, that Tennessee should use any means it saw fit, to force its citizens into obedience to its laws. The Confederate army acted as the agent of the State in quelling insurrection and rebellion in East Tennessee.

After the intense excitement created by the bridge-burning had somewhat subsided, the Confederate and State authorities again manifested a desire to win over, or at least conciliate, the Union element. The commander at Knoxville issued a proclamation to the "Disaffected People of East Tennessee," and assured "all those interested who have fled to the enemy's lines, and who are actually in their army, that he will welcome their return to their homes and their friends; they are offered amnesty and protection, if they come to lay down their arms, and act as loyal citizens." But these conciliatory measures again met with failure, as it soon became necessary to enforce the military drafts, which aroused the greatest opposition. In the summer of 1863, East Tennessee became the theatre of active war. Its history for the next three years is to be found in the military annals of the State.

CHAPTER IV

THE RESTORATION OF CIVIL GOVERNMENT

WHILE Tennessee escaped both executive and congressional reconstruction, it did not follow in the restoration of its civil government the plan laid down by President Lincoln. The most distinctive feature of Lincoln's reconstruction policy lay in the fact that it made the old political people in each of the Southern States self-acting nuclei, which were to bring order out of chaos. According to this theory, neither the President nor Congress had the power to reconstruct a State government. The people within a State alone had the right to initiate and carry into effect measures for the rehabilitation of the deranged governmental machinery. It was the duty of the President under Article IV, Section 4, of the Constitution, to see that their efforts in this direction did not prove abortive by reason of domestic violence.

The germs of this policy may be seen in the instructions sent to the military governors. It was more fully developed in the amnesty proclamation of Dec. 8, 1863. By the terms of this proclamation, a general pardon was granted to all "who directly or by implication had participated in the rebellion, with certain exceptions specified, upon their taking an oath to henceforth support the Constitution of the United States, and abide by the proclamations of the President and the acts of Congress in relation to slavery." It was further promised, "that whenever a number of persons in any of the rebel States, equal to not less than one tenth of the votes cast in such State in the presidential election of the year 1860, each having taken the oath aforesaid, and not having violated it, and being a qualified voter by the elec-

tion law of the State existing immediately before the so-called act of secession, and excluding all others, shall establish a State government which shall be republican in form, and in nowise contravening said oath, such shall be recognized as the true government of the State."

This was, substantially, Lincoln's plan for reconstruction. It was not carried out in any of the Southern States. In all, except Tennessee, it was succeeded by executive reconstruction under Johnson, which was in turn supplanted by congressional reconstruction. In Tennessee an entirely original plan was adopted. This plan shut out from participation in the work of organizing civil government, all those who had taken part in secession. An oath of past loyalty was made the test of political capacity. In short, the restored civil government in Tennessee was based solely on that portion of its inhabitants that had remained loyal to the Union. These Union men, or Radicals as they chose to call themselves, composed about one third of the population of the State, and represented about one fifth of the taxpayers. It will be the object of this chapter to trace the steps by which this small minority seized the reins of government and exercised for three years absolute control of the State.

After the fall of Fort Donelson, on February 15, 1862, the greater part of Tennessee soon came into the possession of the Union army. President Lincoln immediately appointed Andrew Johnson military governor. Athough vested with almost unlimited powers, Governor Johnson had at first little opportunity for their exercise, as the Union army did not remain in peaceful possession of the State. Along the southern border raged the bloody battles of Shiloh, Chickamauga, and Missionary Ridge.

By the fall of 1863, the tide of battle had rolled so far southward that the soil of Tennessee was at last free from contending armies. The time had now arrived for the restoration of civil government. But Governor Johnson felt

secure in the exercise of his power only so long as it rested upon a military basis. He therefore seemed in no hurry to reorganize the State government. He contented himself with filling the vacant offices, most of which under the laws were elective, by the appointment of his political friends thereto.

The leaders of the Union men in the State, the majority of whom were never in sympathy with Johnson, began to grow restive under his military dictatorship.

In May, 1864, occurred Johnson's nomination for the Vice-Presidency. He naturally desired to obtain the electoral vote of his own State. A Convention was therefore called to meet in Nashville for the purpose of nominating an electoral ticket. The Union leaders seized the opportunity which the Convention presented for perfecting an organization of the Union party. A committee was appointed by the Convention, and empowered to issue a call for a second Convention.

The second Convention was called to meet in Nashville, Dec. 19, 1864. It failed to convene on the day appointed, as Nashville was at that time threatened by Hood's army. The defeat of the Confederate forces in the battle of Nashville removed the danger, and the Convention came together on the third day of January, 1865.

The work of the Convention was summed up in the passage of one resolution.[1] The first section contained this statement of the authority under which it claimed to act: "Whereas the first article and the first section of the Declaration of Rights in the Constitution of the State of Tennessee declares, 'That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; and that for the advancement of these ends they have at all times an inalienable and indefeasable right to alter, reform, or amend the governments as they may think proper,' We,

[1] Laws of Tennessee, 1865, Introductory Documents, p. 3.

the people of Tennessee, in Convention assembled, do propose the following alterations and amendments to the Constitution, which, when ratified by the sovereign loyal people shall be and constitute a permanent part of the Constitution of Tennessee." This assertion of constituent powers by the Convention was purely a revolutionary act. The Constitution could be legally changed only in the manner prescribed by the Constitution itself. In the third section of the eleventh article, it provided that all amendments must originate with the State Legislature. In no sense could the Convention be held to represent the Legislature. It was therefore in the eyes of the law a body of private citizens.

The second section of the resolution passed by the Convention contained the proposed amendments. The most important were: the abolition of slavery, the declaration of the invalidity of the secession acts, and an article giving the Legislature the power to determine the suffrage. It was further provided that these amendments should be submitted to a vote of the people, and if ratified by the majority of those voting, the military governor was ordered to hold an election for Governor and Legislature. All voters should be required to take the following oath: "I solemnly swear that I will henceforth support the Constitution of the United States, and defend it against the assaults of all its enemies; that I am an active friend of the government of the United States, and the enemy of the so-called Confederate States; that I ardently desire the suppression of the present rebellion against the United States; that I rejoice in the triumph of the armies and navies of the United States, and in the defeat of the armies, navies, and all other armed combinations of the so-called Confederate States; that I will cordially oppose all armistices or negotiations for peace with rebels in arms until the Constitution of the United States and all laws and proclamations made in pursuance thereof, shall be established over all the people of every State and

territory embraced within the national Union; and that I will heartily aid and assist the loyal people in whatever measures may be adopted for the attainment of these ends; and further, that I take this oath freely and voluntarily and without mental reservation, so help me God."

This test oath marks the first grave departure from President Lincoln's plan. He had suggested a simple oath "to henceforth" support the Constitution on the principle, as he expressed in his message to Congress, that "that test is a sufficient one which accepts as sound whoever will make a sworn recantation of his former unsoundness." This test oath, framed by the Convention, went much further and virtually disfranchised all who had served in the Confederate army.

The Convention completed its labors by nominating a candidate for Governor, and a general ticket for the Legislature. It thus combined the functions of a political and constitutional convention.

Governor Johnson now had no motive for delaying the reorganization of the State government, as it was only a month until his inauguration as Vice-President. He thereupon gave force to the action of the Convention by a proclamation ordering a vote of the people to be taken in the mode prescribed by the Convention. The election was held on February 22d, and resulted in 25,293 for, 48 against. On February 25th, Johnson issued a second proclamation declaring the amendment ratified, and ordering an election for Governor and Legislature. The second election occurred on the 4th of March. W. G. Brownlow, the candidate for Governor, received 23,352 votes against 35 scattering. The legislative candidates received the same number of votes as the election was by general ticket.

In the presidential election of 1860 the vote of the State was 145,000. Johnson therefore held that Tennessee had fulfilled the 10 per cent. requirement of Lincoln's amnesty

proclamation. He issued a final proclamation in which he attempted to set the stamp of legality upon the newly elected Governor and Legislature.

The energies of the new State government were immediately directed toward securing the continued ascendancy of the Union party. This was at first an easy matter, as one of the new amendments to the Constitution had given the Legislature the power of determining the suffrage qualifications.

The Legislature convened on the 2d of April. On the 7th Brownlow was inaugurated. His message contained the following brief reference to the all-important question of the franchise: "While I would not recommend you to give way to the impulse of vengeance any more than to the appeals of sympathy and pity, I would urge you to guard the ballot-box faithfully and effectually against the approach of treason, no matter in what character it may come." [1]

Most of the Union leaders in the Legislature desired the absolute disfranchisement of the "rebels," but it was feared so extreme a measure would arouse hostility in Congress to seating the Representatives from Tennessee. A compromise bill, known as the Arnell Bill,[2] was finally passed. By its provisions the right to vote was restricted to the following persons: "White men over twenty-one years old, who were publicly known to have entertained unconditional Union sentiment from the outbreak of the Rebellion, or who arrived at age since March 4, 1866, and who had not been engaged in armed rebellion against the United States Government, also those who had served in the Federal army, and been honorably discharged, those who had been conscripted by force in the Confederate army, and were known to be Union men, and all those who had voted at the election in March and February, 1865." All other persons were disfranchised. For all persons who had held civil or diplo-

[1] Laws of Tennessee, 1865, 1–15. [2] *Ibid.*, p. 32.

matic office under the Confederate Government, or who had held military offices above the ranks of captain in the Confederate army, or lieutenant in the Confederate navy, also for those who had resigned from the Congress of the United States, or the army or navy of the United States, the term of disfranchisement was for fifteen years. For all other persons from whom the suffrage was withheld the disfranchisement was to last only four years.

The first election to occur after the passage of the Arnell Franchise Law, was the congressional election of August 3, 1865. All the candidates were Union men, but one set represented the conservative element which opposed disfranchisement and tests oaths. The Radicals felt perfectly confident of defeating the Conservatives, if the provisions of the new law were carried out. But it soon became evident that the Radicals had much to fear both from open violation of the law, and secret intimidation of the voter. Governor Brownlow, on the 10th of July, issued a proclamation declaring "that all who had banded together to defeat the franchise law would be dealt with as rebels."

The election passed off without violence. On the 10th of August, before all the returns were in, Governor Brownlow requested the clerks and sheriffs to give him information as to illegal voting. On the information thus received, he cast out the vote of twenty-five counties. Notwithstanding this action of the Governor, four of the Conservatives were elected.

The August election demonstrated to the Union party the necessity of enacting a more efficient machinery for executing the election laws. On January 19, 1866, a new franchise bill was introduced in the Legislature.[1] It made the disfranchisement of the ex-Confederates perpetual. It also established the office of the Commissioner of Registration in each county, and required that certificates of registration issued

[1] Acts of Tennessee, 1866–67, p. 26.

by these commissioners should be presented by every voter in all elections, municipal, county, and State. The power of appointing and removing these commissioners was given to the Governor. He was also authorized to cast out any registration he considered illegal. This made him absolute judge of elections. The bill was passed May 3, 1866. It was amended in November so as to give the suffrage to the negro. The ascendancy of the Union party in Tennessee was now secured, so far as State statute could accomplish this result.

CHAPTER V

RECOGNITION BY CONGRESS

THE Radical leaders in Tennessee naturally expected that the readmission of the Representatives to their seats in Congress would immediately follow the restoration of the State government. Therefore, upon the assembling of the first session of the Thirty-ninth Congress, the full delegation from Tennessee was present on the floor, ready to answer to their names. When Mr. Edward McPherson, the clerk of the House, omitted the name of Tennessee along with the other Southern States from the preliminary roll-call, Mr. Horace Maynard created a dramatic scene by waving aloft his certificate of election, and demanding recognition. In the discussion which followed the roll-call, the cause of Mr. Maynard was championed by Mr. Brooks, the leader of the Democratic minority. "If Mr. Maynard," he said, "is not a loyal man, and is not from a State in this Union, what man, then, is loyal? In the darkest and most doubtful period of the war, when an exile from his own State, I heard his eloquent voice on the banks of the St. Lawrence rousing the people of my State to discharge their duties to their country." The action of Mr. McPherson was upheld by a vote of the House.

This refusal to seat the Tennessee Representatives arose, partly on account of the failure to distinguish between the loyal government in Tennessee, and the so-called Johnson governments, but chiefly because the Republican leaders wished to delay action until a complete reconstruction policy could be mapped out. The Representatives continued, however, to press the claims of the State for recognition

before the "Joint Committee of Fifteen," to which was referred all measures affecting the status of the Southern States.

This Committee was just on the point of yielding, when the veto of the Freedman Bureau Bill occurred. The day after the veto, Mr. Stevens brought before the House, from the Committee of Fifteen, a "concurrent resolution concerning the insurrectionary States," as follows: "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 to either branch of Congress, from any of the said States until Congress shall have declared such State entitled to such representation." A strong effort was made to exempt Tennessee from the provisions of the Resolution. Mr. Grider, a member of the Committee of Fifteen, offered, to that effect, a minority report as follows: "The minority of the Committee on Reconstruction, on the part of the House, beg leave to report that said committee have caused an inquiry to be made as to the condition and loyalty of Tennessee. There has been a large amount of evidence taken, a part of it conducing to show that at some localities occasionally there have been some irregularities and disaffection, yet the main direction and weight of the testimony are ample and conclusive to show that a great body of the people in said State are not only loyal and willing, but anxious to have and maintain amicable, sincere, and patriotic relations with the General Government. Such being the state of facts, we offer the following resolution, to wit:

"*Resolved*, That the State of Tennessee is entitled to representation in the Thirty-ninth Congress, and the representatives elected from and by said State are hereby ad-

mitted to take their seats therein upon being qualified by oath according to law."

In speaking in opposition to this minority resolution, Mr. Stevens said: "I think I may say without impropriety, that until yesterday there was an investigation into the condition of Tennessee, to see whether by act of Congress we could admit that State to a condition of representation here, and admit its members to seats here, but since yesterday there has arisen a state of things which the committee deem puts it out of their power to proceed further without surrendering a great principle, without the loss of all their dignity, without surrendering the rights of this body to the usurpation of another power." The "Concurrent Resolution," introduced by Mr. Stevens, was carried without amendment, so the readmission of Tennessee was again postponed indefinitely.

Two months later, however, its readmission was foreshadowed in a speech by Mr. Bingham on the Fourteenth Amendment. "I trust," he said, "that this amendment will pass this House, that the day will soon come when Tennessee—loyal Tennessee—loyal in the very heart of the rebellion, her mountains and plains blasted by the very ravagers of war and stained with blood of her faithful children fallen in the great struggle for the maintenance of the Union, having already conformed her constitution and laws to every provision of this amendment, will at once, upon its submission by Congress, irrevocably ratify it, and be, without further delay, represented in Congress by her loyal Representatives and Senators. Let that great example be set by Tennessee, and it will be worth a hundred thousand votes to the loyal people in the free North."

The suggestion contained in this speech was promptly acted upon by the Radical government in Tennessee. On the 19th of June, the Fourteenth Amendment was ratified by the Legislature. Mr. Brownlow immediately sent the following telegram to Washington:

"NASHVILLE, TENN., Thursday, July 18.

TO HON. E. M. STANTON, *Sec. of War*,

Washington, D. C.

"My compliments to the President. We have carried the Constitutional Amendment in the House. Vote 43 to 18; two of his tools refusing to vote.

"W. G. BROWNLOW."

On the same day the news of this ratification was received, Mr. Bingham introduced into the House the following resolution:

"Joint resolution declaring Tennessee again entitled to Senators and Representatives in Congress.

"*Whereas*, The State of Tennessee has in good faith ratified the article of amendment to the Constitution of the United States proposed by the Thirty-ninth Congress to the Legislatures of the several States, and has also shown, to the satisfaction of Congress, by the proper spirti of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States; therefore,

Be it resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the State of Tennessee is hereby restored to her former proper practical relation in the Union, and again entitled to be represented by Senators and Representatives in Congress, duly elected and qualified, upon their taking the oaths of office required by existing laws."

In urging the immediate adoption of the resolution, Mr. Bingham declared that: "Inasmuch as Tennessee has conformed to all our requirements; inasmuch as she has, by a majority of her whole Legislature in each House, ratified the amendment in good faith; inasmuch as she has of her own voluntary will conformed her constitution and laws to the Constitution and Laws of the United States; inasmuch as

she has by her fundamental law forever prohibited the assumption or payment of the rebel debt, or the enslavement of men; inasmuch as she has by her own constitution declared that rebels shall not exercise any of the political power of the State or vote at elections; and thereby giving the American people assurance of her determination to stand by this great measure of security for the future of the Republic, Tennessee is as much entitled to be represented here as any other State of the Union."

The resolution was opposed by a few members on the ground that Tennessee had not, as yet, conferred the suffrage upon the negro. Mr. Boutwell offered an amendment providing that Tennessee should not be readmitted until it had established an "equal and just system of suffrage."

On June 20th the resolution passed the House, one hundred and twenty-five voting in the affirmative, and twelve in the negative. On the succeeding day, it came up for consideration in the Senate. Mr. Trumbull proposed, in the place of the preamble which had been framed by Mr. Bingham and passed by the House, the following substitute:

"*Whereas*, In the year 1861, the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State in pursuance of an act of Congress were declared to be in a state of insurrection against the United States, and whereas said State government can be restored to its former political relations in the Union only by the consent of the law-making power of the United States; and whereas the people of said State did on the 22d of February, 1865, by a large and popular vote adopt and ratify a constitution of government whereby slavery was abolished, and all ordinances and laws of secession and debts contracted under the same were declared void; and whereas a State government has been organized under said Constitution, which has ratified the amendment to the Constitution of the United

States abolishing slavery, also the amendment proposed by the Thirty-ninth Congress, and has done other acts proclaiming and denoting loyalty; Therefore, etc."

Mr. Sherman opposed the substitution of this preamble on the ground that it would probably cause the President to veto the resolution. "These political dogmas," he said, "cannot receive the sanction of the President, and to insert them will only create delay, and postpone the admission of Tennessee."

After a considerable discussion, the question being taken on the passage of the preamble as substituted by the Senate, together with the resolution of the House, resulted in twenty-eight votes in the affirmative, and four in the negative. The House promptly agreed to the amendment of the Senate, and the joint resolution was sent to the President for his approval.

The President approved the joint resolution, but sent a message to the House which was in the nature of a protest against the opinions expressed in the preamble. After giving at length his objections to the preamble, the President said:

"Earnestly desiring to remove every cause of further delay, whether real or imaginary, on the part of Congress to the admission to their seats of loyal Senators and Representatives from the State of Tennessee, I have, notwithstanding the anomalous character of this proceeding, affixed my signature to the resolution. My approval, however, is not to be construed as an acknowledgment of the right of Congress to pass laws, preliminary to the admission of duly qualified representatives from any of the States. Neither is it to be construed as committing me to all the statements made in the preamble, some of which are, in my opinion, without foundation in fact, especially the assertion that the State of Tennessee has ratified the amendment to the Constitution of the United States proposed by the Thirty-ninth Congress.

No official notice of such ratification has been received by the Executive, or filed in the Department of State; on the contrary, unofficial information from most reliable sources, induces the belief that the amendment has not yet been constitutionally sanctioned by the Legislature of Tennessee. The right of each House, under the Constitution, to judge of the elections, returns, and qualifications of its own members is undoubted, and my approval or disapproval of the resolution could not in the slightest degree increase or diminish the authority in this respect conferred upon the two branches of Congress."

CHAPTER VI

TENNESSEE AND THE NEW AMENDMENTS

THE deed of cession of Tennessee to the United States by North Carolina contained the provision "that no regulation made or to be made by Congress shall tend to emancipate slaves." The constitution under which Tennessee was admitted into the Union also recognized slavery by the use of the term "freeman" throughout the bill of rights. It was, however, exceedingly liberal in regard to the suffrage, conferring it upon every "freeman of the age of twenty-one years, and upwards." Under this provision, free negroes were allowed to vote.

About 1830, there developed a strong movement in favor of emancipation. At Jonesborough was established the first abolition newspaper ever published in America. But this emancipation sentiment had entirely disappeared by 1860. Even in East Tennessee, the most extreme opponents of secession were firm believers in slavery.

The Emancipation Proclamation of January 1, 1863, did not include Tennessee within its provisions. Slavery, therefore continued to exist as a legal institution until abolished by an amendment to the State constitution. This amendment, as we have seen, was framed by the Radical Convention of 1865. In April, of the same year, Gov. Brownlow laid before the Legislature a joint resolution of Congress containing the proposed Thirteenth Amendment. It was promptly ratified.

In his initial message, Gov. Brownlow discussed, at considerable length, the race problem. He sought to impress upon the Legislature, "that some legislation was neces-

sary for the protection, government, and control of the emancipated slave." The Legislature did not enter upon this work immediately. It was not till May 11, 1866, that a bill was passed entitled, "An act to define the term, 'A Person of Color,' and to declare the rights of such persons."

The first section of this act provided that under the term "Person of Color" should be included all "negroes, mulatoes, meztigsoes, and their descendants having African blood." The second section declared: "That persons of color have the right to make and enforce contracts, to sue and be sued, to be parties and give evidence, and have full and equal benefit of all laws and proceedings for the security of person and estate, and shall not be subject to any other or different punishment, pains, or penalty for the commission of any act or offence than such as are prescribed for white persons committing like acts or offences." By the fifth section, slave marriages were legalized. The last section declared that nothing in the act should be so construed as to admit persons of color to serve on the jury, or to require the education of colored and white children in the same school.

Soon after the passage of this act occurred the great struggle over the ratification of the Fourteenth Amendment. At the time of its submission by Congress to the State the Legislature was not in session. Gov. Brownlow, therefore, issued a call for an extra session to convene on July 4th. The members were very slow in assembling. It became apparent that the opponents of the amendment in the Lower House would seek to defeat its ratification by preventing a quorum, which was fixed by the constitution at two thirds of all the members. Upon the first roll-call only forty-two members answered to their names. At the third meeting this list was increased to fifty-four, but it still fell short two votes of the necessary two thirds. The Sergeant-at-arms was, therefore, instructed to arrest the absentees, and bring them by force to the floor of the House. He did not

find this an easy task, as the refractory members sought by every means possible to elude his search.

The following extract from his report gives a glimpse of the ludicrous game of hide-and-seek enacted in different parts of the State:

"I have the honor to report that in compliance with instruction that I should proceed to Hamilton County, and arrest George B. Foster, member of the House of Representatives, I proceeded to Chattanooga on Friday the 13th, 1866, arriving on the morning of the fourteenth, at 2 o'clock; communicated with the Sergeant of the Metropolitan Police, procured a wagon, and, in company with Sergeant Bently, proceeded to the summit of Lookout Mountain, to the residence of Mr. Foster, and was there informed by his family that he had ridden out in the country; carefully watched the premises without result until evening; was informed that he would be home that night; lay up on the mountain all night, awaiting his return. Mr. Foster did not return. I am satisfied that his family on the mountain, at the time of my leaving them, did not positively know of his whereabouts, although there was a manifest intention on their part to mislead as to his locality. I found it impossible to conceal my business, and destination,—the resolution of the House and order for the arrest of the absentees having been published and otherwise communicated."[1]

Several of the members attempted to resign, but Governor Brownlow refused to accept their resignations. He sent the following response to Mr. Dunnaway, representative from Bedford County: "Sir,—As it is evident the design of your resignation is to reduce the House below a quorum and to break up the Legislature, the same is not accepted."

Exasperated at the repeated failure of the Sergeant-at-arms to arrest the hiding members, Governor Brownlow, on the 14th of July, applied to General Thomas for military

[1] Acts of Tennessee, Extra Session, 1866.

assistance. This request was referred to the Secretary of War, Mr. Stanton, who replied: "That the duty of the United States forces is not to interfere in any way in the controversies between the political authorities of the State, and Gen. Thomas will strictly refrain from any interference between them."

The deadlock was finally broken on the 19th of July, in a somewhat extraordinary manner. Two members, arrested by the Sergeant-at-arms, were brought to the Capitol, and placed in a committee-room communicating with the hall of the House. A motion was then passed that they "be invited and required to take their seats within the bar of the House." The two members refused to come out of the committee and continued to remain silent when their names were called. The Speaker thereupon declared that no quorum was present. An appeal was taken from this ruling, and it was reversed. The House then proceeded to a vote upon the amendment; and it was declared duly ratified, forty-three votes having been cast in the affirmative, and eleven in the negative.

In the meantime, Mr. Williams, one of the arrested members, applied for and obtained a writ of habeas corpus. It was made returnable to Thomas N. Frazier, Judge of the Criminal Court of Davidson County, who, upon the hearing of the case, discharged Mr. Williams from the custody of the Sergeant-at-arms. On account of this decision, the House of Representatives preferred articles of impeachment against Judge Frazier. He was tried by the Senate, sitting as a Court of Impeachment. It sustained the articles of impeachment, and deposed Judge Frazier from office. He was also forever disqualified from holding any office of profit or trust in the State. His disqualifications were however removed by the Constitutional Convention of 1870, and he was afterward re-elected Criminal Judge.

The Fifteenth Amendment was submitted to Tennessee in

1869, just before the close of the radical era. The suffrage had been conferred upon the negro by an act of the Legislature of the previous year, but it was known that the whole question would be reopened by the Constitutional Convention which had just been called. The Legislature, therefore, refused to take final action on the amendment. It was referred to the Committee on Federal Relations, from which it was never reported.

CHAPTER VII

FINANCIAL ADMINISTRATION OF THE RADICAL GOVERNMENT

THE joint resolution of July 24, 1866, completed, so far as Congress was concerned, the restoration of civil government in Tennessee. Her Senators and Representatives were admitted to their seats, and the State, to all intents and purposes, was restored to the same position it had occupied prior to the attempted withdrawal in 1861.

The political basis of the restored government was, as we have pointed out, the loyal people of the State. They consisted mainly of four elements, namely, the inhabitants of the small towns and the upland farms of East Tennessee, and poor whites, or "white trash," as they were commonly called, scattered throughout the State, a few "old-line" Whigs in West and Middle Tennessee, and lastly the negro and the carpetbagger. This ruling minority was, therefore, neither an aristocracy of wealth, intelligence, nor social position. It could not be expected that the management of public affairs by such hands would be just and conservative. From the beginning it showed a tendency toward reckless expenditures and an entire disregard of property rights. Mr. Brownlow, in his first message to the Legislature, advised a general increase in the salaries of State officials. This advice came at a time when the finances were at a low ebb, and the whole industrial and agricultural interests of the community were thoroughly demoralized. Nevertheless, the Legislature was only too ready to carry these suggestions of Governor Brownlow into execution. They passed a bill increasing the salaries of the supreme judges from $2000 to

$5000 a year. This was followed by other bills increasing the salaries of the various State officials. This resulted in an enormous increase in the current expenditures of the State.

The whole expenses of the State government for the years 1851 to 1861, inclusive, had been about $6,500,000. The entire expenses during the Brownlow administration, which lasted only three years and a half, were $7,301,352. The taxes in 1868 were fourfold greater than in 1861, yet on the former date, the Comptroller announced in his report to the Legislature that the State was on the verge of bankruptcy.

But the most troublesome legacy Mr. Brownlow left the people of Tennessee was an increase in the State debt of $21,647,000.

By an Act of the Legislature in 1852, known as the General Internal Improvement Law, the Governor had been empowered to issue State bonds to the amount of $8000 per mile in aid of railroad companies, upon the following conditions: "1. That the company shall first secure bona-fide subscriptions to its capital stock to an amount sufficient to grade, bridge, and prepare for the inner rails the whole extent of the main trunk line proposed to be constructed; 2. That it be shown by the company to the Governor that the said subscriptions are good and solvent; 3. That the company shall have graded, bridged, and made ready to put down the necessary timbers, for the reception of rails, and fully completed a specified number of miles at either terminus in a good and substantial manner, with good material for putting the iron rails and equipments in place, and that the State shall be given a first-mortgage lien on their property; 4. That the Governor shall be notified of these facts by the written affidavits of the Chief Engineers and President of the Company, together with the written affidavit of a competent engineer appointed by the Governor to

examine the specified section; and shall be furnished with an affidavit of the President of the Company, and a resolution of a majority of its Board of Directors for the time being, pledging that the bonds issued to it shall not be used for any other purpose than that of procuring the iron rails, chairs, spikes, and equipments, and for putting down the iron rails on the specified section for which they are issued; and that the President shall deposit in the office of the Secretary of State a full and accurate list of all the stockholders, with the sum subscribed by each and every stockholder."

Under the provisions of this act, there had been issued, prior to the war, bonds amounting to $14,841,000. In the main, the conditions enumerated in the act, were fairly complied with, and the State protected from all loss.

The close of the war left the railroads, like every other industrial interest in the State, in a thoroughly demoralized condition. Upon the first arrival of the Federal troops, they had been seized by the Government and used for military purposes. A great part of the rolling stock had been destroyed, and many of the bridges and buildings burnt.

As soon as the restored government was in working order, the railroad interests turned to the State treasury for relief. This was obtained through the passage of a number of bills, which professed to be based upon the Act of 1852. They were known as Omnibus bills, and under their provisions bonds to the amount of $14,393,000 were issued.

The means resorted to to secure the passage of the Omnibus bills furnished the greatest scandals of the restoration period. They are vividly set forth in the following extract from the Report of the Committee of Investigation appointed by the Legislature of 1879:

"Many corporate presidents, agents, and representatives came to Nashville to attend the sittings of the Legislature. All known influences were used upon the supposed repre-

sentatives of the people. From the pulpit to the bagnio, recruits were gathered for the assault on the treasury of the State. Fine brandy by the barrel was on hand to fire thirst and muddle the brain, and first-class suits of clothing to capture the vanity or avarice of the gay or needy. Money, the proceeds of the bonds issued by the State, for specific purpose to these men, was here in abundance, and it was used. Take one example: A man came to the State. He was appointed Receiver of two short insolvent railroads at a salary of $5000. He was appointed Commissioner of Registration for Franklin County. He sent his Superintendent to the Legislature of 1867 as a member. That member, in conjunction with a certain Senator, was active in procuring 'State aid.' The Commissioner and Receiver let out contracts on his road, and was a silent member. The proof shows that this Receiver, this member, and this Senator formed a conspiracy to defraud the State. About a million dollars of bonds issued under the Act of 1867 went into the hands of the Receiver. Take another: A president of a railroad would sell bonds and apply a portion of the proceeds in corrupt efforts to get more bonds. They got bonds for roads that had never been surveyed and located. One railroad president says that he had great influence with the Governor, that another railroad president wanted bonds and desired his services with said Governor, that he got them, that, in addition to pay directly for his services and influences with the Governor, he was to have control of a portion of the bonds obtained to use as margin in stock speculations in New York. They got 885 bonds in New York. This man of influence with the Governor further says that he and the other president were partners in stock speculation, and used the bonds obtained from the State in these speculations."

When the Democrats regained control of the State, the settlement of the State debt, which had been so greatly

increased by the Brownlow Administration, proved a most perplexing question. It became an apple of political discord, and retarded the industrial and commercial regeneration of the State. It disrupted the Democratic party into three factions. A few of the most prominent leaders desired to see the State's credit preserved by paying the bonds in full. A still larger number, while recognizing the validity of the bonds, conscientiously believed that the State, on account of the amount of the debt, and the demoralized business conditions resulting from the war, would be unable to meet its just obligations. They therefore favored some agreement with the bondholders, whereby the debt could be scaled without inflicting dishonor upon the State. A third faction was for open repudiation. They contended that the bonds were illegal on two grounds, first, they had been issued in direct violation of the conditions precedent laid down in the Internal Improvement Act of 1852, and its amendments; secondly, the Brownlow Administration, which had issued the bonds, did not represent the State, it was a mere interim of usurpation and revolutionary government. While for purposes of convenience its acts, which affected merely private rights, should not be disturbed, nevertheless it could not pledge the credit of the State.

In 1873 a Funding Act was passed by the Legislature. It provided that all past due coupons and bonds might be funded into new bonds bearing interest at six per cent., redeemable after July 1, 1884, and payable July 1, 1914. Coupons on the new bonds were payable on January and July of each year, beginning with July, 1874. The question as to the validity of the Brownlow bonds was avoided by inserting a provision that only "bonds legally issued should be funded." But the State officials ignored this provision by funding all the bonds that were presented.

This Funding Act of 1873 proved a failure. The State was unable to meet its interest on the new bonds. A series

of bad crops increased the difficulty. The assessment returns for 1874, as compared with those of 1873, exhibited a decrease of $18,556,173.

On January 1, 1877, the arrears of interest amounted to $1,570,646. It now became apparent to the bondholders that they must either effect some compromise with the State, or run the risk of losing the entire debt. They, therefore, entered into personal communications with the Governor, and signified to him their willingness to compromise. Their communications were laid before the Legislature, and it adopted on January 26, 1877, the following resolution:

"*Whereas*, The General Assembly has with pleasure received, through the message of his Excellency the Governor, the communications of certain gentlemen, holders of bonds of the State, and representatives of holders of bonds, asking for a conference looking to a permanent and equitable adjustment and compromise of the claims held by them against the State; therefore, be it

"*Resolved*, By the General Assembly, that the Governor be requested to communicate by telegram, or by letter, with the gentlemen holding securities of the State, mentioned in his message, and request them to submit, on the earliest day possible, through him, to the General Assembly any proposition of adjustment and compromise, which they may desire."

As the result of this resolution, a committee of the Legislature and a committee of the bondholders met and agreed to the following proposition: "That arrearages of interest to July 1, 1877, be added to the bonds, and that new ones for sixty per cent. of the total amount be issued, made to bear interest at six per cent., and to fall due in thirty years." It was naturally expected that the Legislature would ratify the action of its committee. Much to the surprise of every one concerned, it not only rejected the proposition,

but decreased the tax rate from forty to ten cents per hundred dollars, and thus made the payment of interest absolutely impossible.

Later in the year the bondholders presented a second proposition, in which they agreed to a scaling of the debt fifty per cent., but this was also rejected by the Legislature.

In 1879 a committee was appointed by both Houses of the Legislature to investigate and report upon the State debt. This committee, after taking a great amount of evidence, presented an elaborate report. Acting upon this report the Legislature passed a second bill, March 31st. It provided for the issue of bonds bearing four per cent. interest to be exchanged for outstanding bonds with the interest accrued thereon, at the rate of fifty per cent. on the dollar. It was not to become a law until approved by a vote of the people, and two thirds of the bondholders. The consent of the bondholders was readily obtained, but the measure was defeated at the polls.

A settlement of the debt now seemed hopeless. It was the chief issue in the gubernatorial campaign of 1880. The divisions of the Democratic party resulted in the election of the Republican candidate, Alvin Hawkins. The newly elected Legislature was also favorable to the bondholders. A bill was passed which provided for the funding of the outstanding debt at par, the new bonds to bear interest at three per cent., and the coupons to be receivable for taxes. The bill was signed by the Governor, and went into effect in April. It was regarded as a great triumph for the bondholders, but their rejoicing was short-lived. In a test case the courts decided the law unconstitutional, on the ground that the Legislature could not make a valid contract in which the coupons should be receivable for taxes for ninety-nine years. This decision reopened the whole question.

The defeat which the Democrats had suffered in 1880 served to unite them in 1882. Their candidate, W. B.

Bate, was elected Governor. In his message to the Legislature, Governor Bate marked out a plan for the settlement of the debt which was finally adopted, by an act passed March 15, 1883. This act declares: "That the State will pay in full the bonds held by Mrs. James K. Polk, and all bonds held by educational, literary, and charitable institutions in the State; that it will pay in discharge of its just obligations, what is known as the State debt proper in full, less war interest; and that in compromise of the remainder of the debt, known as the railroad debt, it will pay one half of the principal and accrued interest by issuing therefor bonds of the State bearing interest at the rate of three per cent. per annum."

CHAPTER VIII

RADICAL MUNICIPAL ADMINISTRATION

THE "carnival of crime and corruption" described in the preceding chapter was not confined to the Legislature. Similar scenes were enacted in almost every county and city in the State. As the suffrage limitations placed upon the ex-Confederates applied to all elections, the Radicals were in complete control of these local governments. The large municipalities, such as Memphis, Nashville, Chattanooga, and Knoxville were the greatest sufferers from the rule of irresponsible and corrupt officials.

In 1867, a carpetbagger, by the name of Alden, had succeeded in being elected Mayor of Nashville. Having filled the city council with his political followers, most of whom were non-property-holders, he entered upon a course of open and systematic public plunder, which made even the State administration stand aghast. The city treasury was soon drained. The tax rate was enormously increased; but as this did not suffice, checks, warrants, and due bills, made out in the name of the city, and payable to bearer, were sold to street shavers of notes at any price they could bring. Bonds were also issued. As these evidences of indebtedness multiplied, the market quotations for them declined.

In the face of this wholesale corruption, Alden and his associates were re-elected. It now became evident that, unless some heroic measure was resorted to, the entire property of the city would be confiscated by their rapacity. A tax-payers association was formed, which began a campaign of public agitation. Public meetings were held in

various parts of the city, and resolutions were adopted denouncing the "Alden ring" in the most scathing terms.

It was finally decided to seek relief through the courts. All the judges throughout the State were Radical, but in striking contrast with all the other officials of the Radical régime, they were men of unquestioned integrity, and, for the most part, lawyers of high standing. They had displayed great independence in interpreting the franchise laws, and in curtailing, as far as possible, the excessive use of the military power. Mr. Thornburg, the defeated candidate for mayor, filed a bill in the Chancery Court of Davidson County, in which he alleged that the city administration was inefficient, that its members were guilty of fraud and corruption, and that of right their offices were vacant because they were not owners of real estate, as required by law. He therefore prayed that the city officials be enjoined from the further issuance of checks and notes, and that they be declared usurpers and turned out of office, and that a receiver be appointed to take charge of the affairs of the corporation. Pending the coming in of the answer of the defendants, and the final decision of the case, Chancellor Shackelford granted a temporary injunction restraining the mayor and the city council from receiving any salary or perquisites of office. On December 7th, final decision was rendered, the Chancellor using the following language: "I am of the opinion that the complainants are not entitled to the injunction or the receiver prayed for, and the application is therefore refused."

In May, 1869, Col. A. S. Colyar, editor of the *Union and American*, and one of the most distinguished lawyers in the South, made a thorough examination of the city's books and records. At a mass-meeting of the citizens, he made the most startling disclosure in regard to the extravagance and corruption uncovered by that investigation. He declared that the city was in the hands of thieves, and expressed the

opinion that there was not a judge on the bench of Tennessee who would refuse to grant relief. On June 1st, he filed a bill at Gallatin, Tenn., before Charles Smith, Chancellor of the Seventh Chancery Division.

The bill was brought "in the name of the State in the relation of 466 citizens in behalf of themselves and others against the mayor, and the city council, the city treasurer, revenue collector, and others." It prayed "that further speculation in checks be enjoined; that no more checks be issued and no more received until, on the one hand, the right of the city to issue them should be accurately defined, and until, on the other, the validity of outstanding checks should be determined; that the corporation officers who were defendants in the case, be compelled to account for money made by speculation in the means and credit of the city; and lastly, that a receiver of known financial ability, with good credit and good reputation, be appointed with full power to control the finances of the city and make contracts so as to save the city from ruin."

The terrible condition of the city was set forth at length in the bill. It was alleged, among other things, that $1,323,668 in checks had been issued, $759,000 of which were without authority of law, while much of the remainder was for illegal purposes. The most exorbitant rates of interest were paid, in some cases as much as 100%. Failing to meet its maturing obligations, the creditors of the city were resorting to the courts, and the city's property was being sold to satisfy them.

After an elaborate argument of the case, in which the defendants were represented by eminent lawyers, Chancellor Smith granted the prayer of the petitioners. Mr. John M. Bass was appointed receiver. After furnishing a bond of $500,000, he entered upon the receivership, June 28th. On the following month, a motion was made by the deposed officials, in the Nashville Chancery Division, to have the

receivership dissolved. The motion came up for hearing before Judge Edwin H. East, the successor of Chancellor Shackelford. Judge East had been the private secretary of President Johnson, and had taken a leading part in the reorganization of the State.

In arguing against the motion to dissolve, Col. Colyar took the ground that a municipal corporation was not a political body, but simply a business corporation whose officers were amenable to the courts for the proper discharge of their functions. Judge East concurred in this view, and upheld the receivership. In his opinion, he used the following language: "The functions of a municipality are twofold: first, political, discretionary, legislative; secondly, ministerial. While acting within the sphere of the former, they are exempt from liability inasmuch as the corporation is a part of the government, to that extent, and its officers are to the same extent public officers, and as such entitled to the protection of this principle; but within the sphere of the latter (ministerial duties), they drop the badge of governmental officers, and become, as it were, the representatives of a private corporation in the exercise of private functions. The distinction between these legislative powers which it holds for public purposes as a part of the government of the country, and those public franchises which belong to it as creation of law, is well taken."

The receivership was of short duration. In August the regular city election occurred. Mr. Morris, a wealthy citizen, was elected mayor. Immediately after the election, the affairs of the city were again placed in the hands of its ordinary officials.

Several years after the occurrence of these extraordinary proceedings, Col. Colyar, in a speech delivered at Buffalo, N. Y., explained the legal theory on which he placed the application for the receivership. "I took the ground," he said, "that, while in England, cities were in a sense political,

because in the creation of the House of Commons, the cities and boroughs had in part organized it, in the time of Edward I., and to this day, as cities and boroughs, they elect members to the House of Commons; but that in this country, our cities have no such political status, and that in nowise are they separate from the balance of the community in politics, and therefore our cities are not political bodies, and that the delegation of a part of a State's sovereignty is a fiction, and the management of a city is a mere trust."

CHAPTER IX

KU-KLUX OUTRAGES

It does not fall within the limits of our subject to go into the general history of Ku-Klux Klan. This mysterious organization originated in Tennessee, but it soon spread beyond the borders of the State, and became the organ of all those who believed in resorting to violent measures to secure the emancipation of the Southern States from negro and carpetbag domination. Its history, therefore, belongs under the general history of Reconstruction. Nevertheless, the study of the civil disturbances in Tennessee resulting from the war would indeed be incomplete without some account of the operation of the Ku-Klux within the borders of the State. It formed the chief occasion for interferences with civil liberty, as well as for congressional legislation, which rendered the Radical government so hateful in the eyes of the ex-Confederates.

The first official reference to disturbances of an extraordinary character is found in Governor Brownlow's first message to the Legislature. In this, he calls the attention of the Legislature to "the roving bands of guerrillas and squads of robbers and murderers who frequent those counties remote from the military forces." He recommended that the criminal law of the State be so revised as to make house-stealing, and house-breaking, and highway robbery punishable with death. Acting upon his recommendations, the Legislature, in May, 1865, passed a bill to punish "all armed Prowlers, Guerrillas, Brigands, and Highway Robbers." But as yet there were no indications, either in the message of the Governor or the action of the Legislature, that these early disturbances were of a political character.

The Ku-Klux Klan did not come into existence until the following year. The little town of Pulaski, in Giles County, claims the doubtful honor of being its birthplace. It seems to have originated with a coterie of young men, who banded together for the purpose of obtaining amusement by playing upon the superstitious fancies of the negroes. They organized themselves into a lodge, and adopted a fantastic ceremony and ritual. Their meetings were held at night, and they usually came together mounted on horseback, and wearing hideous disguises. They frightened the negroes by telling them horrible ghost stories.

It was quickly seen that the measures adopted purely for amusement could be turned into practical use in controlling the negro. The conditions were ripe all over the South for such an organization, so it spread like wildfire. Lodges sprang up in all parts of the Southern States, with the possible exception of Virginia. A loose bond of union was formed between them, but in different localities they assumed various names, such as "The Pale Faces," "The Invisible Empire," "The Brotherhood." They were all finally denominated "The Ku-Klux Klan."

Somewhat antedating the Ku-Klux Klan, and almost equally rapid in growth, were the Union secret societies. They also bore various names, the most popular being "The Loyal League" and "The Union League of America." They were devoid of any fantastic features, and did not, as a rule, resort to violent measures, but their object was the same as the rival organization, namely, to secure political control of the negro.

In the spring of 1867, the Radical newspapers of Knoxville, Nashville, and Memphis commenced to be filled with reports of outrages committed upon negroes and Union men. Upon investigation, these reports oftentimes turned out to be either wholly untrue or greatly exaggerated, but they served to throw the Radical party into a state of intense

excitement. Their leaders believed, or professed to believe, that another general insurrection was threatened. Acting under this conviction, the Legislature passed a bill on the twentieth of February, 1867, to equip and call into active service, under the absolute command of the Governor, a State Guard to be composed solely of Union men. It also passed a joint resolution requesting the Governor to "apply to General Thomas, the commander of the department, for a sufficient force of United States soldiers to keep the peace and restore order and quiet in our State."[1] In response to this application several regiments were furnished by General Thomas, but he cautioned that they should be used only in aid of the civil authority.

These Ku-Klux outrages followed closely upon the passage of the Arnell Franchise Law. This bill, as we have pointed out, made the political disabilities of the ex-Confederate absolute and perpetual. It destroyed the last hope of regaining political control of the State, through legal and constitutional means. As a natural result, public opinion commenced to tolerate acts of violence which till then had been strongly condemned. The best men of the communities, while they did not take active part in the Ku-Klux movement, gave it their approval by a policy of acquiescence. Juries refused to commit, even upon the clearest evidence, persons accused of offences against negroes or Union men.

A crisis was reached in the spring of 1868. Mr. S. M. Arnell, the framer of the election law and Congressman from the Eighth District, was made the object of a Ku-Klux raid. Having narrowly escaped hanging through flight and concealment, he sent the following dispatch to the Governor: "The Ku-Klux searched the train for me last night, pistols and rope in hand. Empower me to call upon the military here, if necessary in your name, to suppress all

[1] Acts of Tennessee, 1867–68, p. 22.

armed and masked parties in this vicinity. I propose to fight it out."

Upon the receipt of this dispatch, Governor Brownlow made a second request for federal troops. This time he received an unfavorable response. General Thomas informed him that "the State of Tennessee, being in full exercise of the civil functions of a State, the military authority of the United States cannot legally interfere except in aid and support of the civil authority. For these purposes troops have been sent to various locations. These details, together with the present demand for troops to assist the United States officers in collecting revenue, have so exhausted the forces at my command as to prevent the complying with your request to send companies to the counties named."

Governor Brownlow now had recourse to an extra session of the Legislature. His message was couched in the most violent language. "The rebel element of the State," he said, "were secretly arming themselves, and perfecting a military organization, known as the Ku-Klux Klan, composed of ex-rebel soldiers, and those in sympathy with them, thus violating their paroles at the time of their surrender, and violating the laws of the State, and plotting and planning mischief in every respect.

"These men have been arming and organizing for a year past, with an eye to the overthrow of the State government, and, ultimately, to carrying the State in the presidential election. Organized upon the same basis, and having the same dark designs in view that found a fit culmination in Booth's assassination of Abraham Lincoln, it works in secret with signs, symbols, and pass-words, hatching plans to scatter anarchy and permanent disorder wherever it may have an existence. I recommend, most emphatically, that these organized bands of assassins and robbers be declared outlaws by special Legislature, and punished with death wherever found." [1]

[1] Acts of Tennessee, Extra Session, 1868.

The violent language of the message aroused the greatest alarm among the Democratic leaders of the State. They feared that if the measures recommended by the Governor were adopted, civil war would indeed result. A meeting was held at Nashville in August, and a memorial to the Legislature was framed, by the following men, all of whom had been generals in the Confederate army: N. B. Forrest, B. F. Cheatham, W. B. Bate, J. C. Brown, Bushrod Johnson, Gideon J. Pillow, W. A. Quarles, S. R. Anderson, G. G. Dibrell, and George Maney.

In this memorial they expressed a deep solicitude for the peace and quiet of the State, protested against the charge of hostility to the State government, or of a desire for its overthrow by revolutionary or lawless means, as well as against the charge that those who had been associated with them in the past days contemplated any such rashness or folly; nor did they believe that there was in Tennessee any organization, public or secret, which had such a purpose, and that, if there was, they had neither sympathy nor affiliation therewith. They further declared, that the peace of the State did not require a military organization; that such a measure might bring about and promote collisions rather than conserve the harmony and good order of society; and finally that they would pledge themselves to maintain the order and peace of the State with whatever influence they possessed, and would uphold and support the laws and aid the constituted authorities in their execution, trusting that a reciprocation of those sentiments would produce the enactment of such laws as would remove all causes disturbing society.

"For," they continued, "when it is remembered that the large mass of white men in Tennessee are denied the right to vote or to hold office, it is not wonderful or unnatural there should exist more or less dissatisfaction among them. And we beg leave respectfully to submit to your considera-

tion that prompt and efficient action on the part of the proper authorities, for the removal of the political disabilities resting upon so many of our people, would heal all the wounds of our State, and make us once more a prosperous, contented, and united people." [1]

This memorial came too late to allay the excited minds of the Radicals. On the 10th of September, the Legislature passed a bill "to preserve the public peace." This bill imposes "a fine of not less than five hundred dollars, and imprisonment in the penitentiary for not less than five years, and renders infamous any person who shall unite with, associate with, promote or encourage any organization of persons who shall prowl through the counties and towns of this State, by day or night, for the purpose of disturbing the peace or alarming the peaceful citizens of any part of the State. In order to secure the proper execution of this act, the same punishment is to be meted out to any person summoned as a witness, who shall fail or refuse to obey the summons, or who shall appear and refuse to testify; the same to any prosecuting attorney who shall be informed of the violation of the act, and fail or refuse to prosecute the person informed on; the same to any officer or other person who shall inform any other person that he was to be summoned as a witness, with the intent of defeating any of the provisions of the act; the same to any one who shall feed, lodge, or entertain or conceal in the woods, or elsewhere, any one known to such person to be charged with an offence under the act."

The act further provides, that "no indictment shall be required for prosecution, and no indictments held insufficient for want of form; that where any sheriff or other officer shall return process issued under the act, unexecuted, an alias shall issue, and the officer shall give notice to the inhabitants of the county of such alias by posting a notice

[1] See *Why the Solid South*, by Hilary Herbert, and others.

at the court-house door, and if the inhabitants shall permit the defendant to be or live in the county without arrest, they shall be subject to an assessment of not less than five hundred dollars and not more than five thousand dollars; that all the inhabitants of the State shall be authorized to arrest offenders under the act, without process; that every public officer shall swear that he has never been a member of the Ku-Klux Klan." The measure of damages was as follows: For entering the house or place of residence of any officer at night, in a hostile manner, or against his will, ten thousand dollars; and for the killing of any peaceable individual at night, twenty thousand dollars. All other damages were to be assessed in proportion.[1]

Even the passage of this extraordinary law did not satisfy Governor Brownlow. Under his guidance, the Legislature re-enacted the military laws, and conferred upon him the power to declare martial law whenever and wherever he saw fit. He did not suffer this prerogative to remain idle. On the 20th of January, 1868, he called the State Guards into active service. Several days later he issued the following proclamation:

"*Whereas*, There are now sixteen hundred State Guards at Nashville armed and equipped under the command of Joseph Cooper; and *Whereas*, These troops are intended to preserve peace and enforce the laws in counties heretofore in partial rebelion.

"Now, therefore, I, W. G. Brownlow, Governor of Tennessee, do hereby proclaim martial law in and over the following named counties, to wit: Overton, Jackson, Maury, Giles, Marshall, Lawrence, Gibson, Madison, and Haywood.

"And I further direct that General Cooper distribute these troops at once and continue them in service until

[1] Acts of Tennessee, Extra Session, 1868, p. 18.

unmistakable evidence is given by all parties of a disposition to keep the peace.

"W. G. BROWNLOW,
"*Governor of Tennessee.*"

The counties named in the proclamation were among the richest and most populous in the State. Their prominent citizens were unanimous in condemning what they conceived to be the tyrannical and arbitrary action of the Governor. The following is a fair sample of the numerous protests made through the public press[1]:

"NASHVILLE, February 21, 1869. I see that martial law is declared over the county of Lawrence, the county I have the honor to represent, which I must acknowledge greatly astonished me, for I know of no person or persons who complained of any depredations in the county, or that there was any difficulty at all in enforcing the law in said county; but on the contrary, the people of the said county are at this time, and have been for some months past, more peaceable, quiet, and law-abiding than they have been for the past ten years; and only a few days ago James H. MacKay, sheriff, Ira J. Brown, clerk of the Circuit Court, and other officials of said county in a written communication to the Governor, stated that there was no difficulty in enforcing the civil law in said county, and consequently no necessity for the militia or other troops to enforce law, all of whom are men of respectability and worthy of credit, and the persons specially named above were soldiers of the Federal army during the late Rebellion, and are all now, and always have been, members of the Radical Republican party.

"I am at a loss to know why troops should have been quartered upon the people of my county without consult-

[1] *Union and American*, February 21, 1869.

ing their immediate Representative. I think surely some person or persons have made misrepresentations to the Governor, and sincerely hope that the order will be revoked and save my people the mortification and expense of having troops quartered amongst them in times of profound peace. 'Let us have peace.'

"W. P. H. TURNER,
"*Representative, Lawrence County.*"

Governor Brownlow answered these protests by declaring his intention to further extend the sway of martial law. But fortunately for the peace of the State, only a few days of his term as Governor remained. Under his successor the troops were withdrawn and the military laws were repealed. A state of tranquillity quickly ensued.

CHAPTER X

CLOSE OF THE RADICAL DOMINATION

After the recognition of the loyal government by Congress, the only hope of the disfranchised ex-Confederates of regaining political control of the State lay in a division in the ranks of the Union party. So long as Governor Brownlow remained at the head of affairs, no such division occurred. He served as Governor the full term of two years, and was re-elected. Before the expiration of his second term, he was chosen by the Legislature to represent Tennessee in the United States Senate. According to a provision of the State constitution, the vacant governorship descended to De Witt Senter, Speaker of the State Senate. Mr. Senter was inducted into office on the 29th of February, 1868.

Three years had now passed since the close of the war, and the restoration of civil government, but the majority of the white citizens still remained disfranchised, and no steps had been taken to remove their disqualifications. In speaking of this aspect of the situation, Mr. Fletcher, Secretary of the State, said: "Our mistake was that we made the franchise law sweeping and perpetual, offering no hope or inducement to the ex-rebel to become loyal. The man who is disfranchised in a republic is not apt to feel that it is his government, or to take pride or interest in it, nor apt to make a useful or even law-abiding citizen of it. I do not feel comfortable in a State where half of the people and two thirds of the tax-payers are publicly degraded by law, without motive to be proud of the State and government."

Upon the day of Governor Senter's inauguration, the air was filled with rumors and signs of coming changes. Whether

it would be a violent eruption or a peaceful change through constitutional means, no one could foresee. In the great crowd which gathered at the Capitol to hear the inaugural address, there was noticed by the press reporters a number of distinguished Southern leaders. This in itself was considered a harbinger of the coming storm. The address proved disappointing to all. It was expected that the Governor would give some intimation of the policy he intended to pursue, but he simply expressed his appreciation of the office to which he had been elevated, and his desire to see peace and prosperity restored to the State.

There was little of interest in the character or career of the new Governor. He was born in Granger County in 1833. His father, William F. Senter, had represented the Second Congressional District in the Twenty-eighth Congress. Although Governor Senter had been chosen Speaker of the Radical Senate he had never shown himself an extreme partisan. He had even been a member of the secession Legislature of 1861; but Congress had relieved him of his political disabilities on the 22d of December, 1868. It was therefore with a hopeful expectancy that the people of Tennessee hailed his advent into the office of Governor.

But before Governor Senter could make any change in the administration, the State was plunged into a heated campaign to elect his successor. He was entitled by the Constitution to serve out Brownlow's unexpired term, but only a few months remained of that. His aspirations naturally went beyond his brief *pro tem.* term, and he, therefore, announced his intention of becoming a candidate subject to the approval of the Union party.

A new candidate soon appeared in the person of W. B. Stokes. Mr. Stokes was the Representative of the Third District in Congress. His record had been somewhat similar to that of Governor Senter. At the beginning of the war he had identified himself with the secession move-

ment, but had quickly deserted what he saw to be a sinking ship. After the war, as if to make amends for his past conduct, he became one of the most extreme and bitter Radicals.

At first, the canvass was a mere personal contest, having little significance to any one except the Radical leaders. A Convention of the Union party was called to meet in Nashville on May 22d. Both candidates pledged themselves to abide by the decision of this Convention.

Ex-President Johnson's return to Tennessee at this time added to the uncertainty of the contest. He was still a power in Tennessee politics, and it was rumored that he might enter the race as a Conservative Democrat. The Radical Convention assembled in Nashville on the day appointed. It was called to order by Thos. Cates, chairman of the Central Committee, who was a Stokes man. After the reading of the call, Judge Houck moved that Mr. Pearne, a friend of Governor Senter, be made temporary chairman of the Convention. His motion having failed to be recognized by Mr. Cates, he put it to the House himself and declared Mr. Pearne elected. Mr. Pearne attempted to reach the chair, but was forcibly prevented. This resulted in a hand-to-hand contest between the delegates. Failing to perfect a temporary organization, the Convention adjourned until the following day. But at the second meeting the disgraceful scenes of the first were repeated. It finally dissolved amid the utmost confusion.

The Union and American, a daily newspaper, published in Nashville, contained the following report of the Convention's proceedings.

"The so-called Radical State Convention, the most disgraceful, profane, and vulgar assemblage of men ever congregated in the State to consider public affairs, came to an abrupt termination yesterday, after an ineffectual attempt of two days to organize. It simply dissolved. It could not

even adjourn. It had no chairman, no secretary, and could not even transact any business. It met as if by chance, and dispersed from necessity. It was an agglomerate discord, an inflamed mob filled with mean whiskey and meaner passions. It was a meeting of mortal enemies under the guise of friendship to decide the spoils of misdeeds and crimes. They quarrelled and fought, and called each other liars and thieves, and all manner of epithets. Such a congregation of vulgar elements, so fierce, so bitter, and so reckless, was never seen before in this section of the Union.

"This assemblage of Radicals was called together to counsel for the good of the State, and present to the people a person of such fair name and true patriotism as to be worthy of them and the State for their chief executive!"

The above description was written by a "rebel" editor, but the following account, taken from the *Knoxville Whig*, is scarcely less severe: "We share in the regret of all good Republicans that the late Convention was so divided, boisterous, disrupted. We have attended many conventions, national and State. We never attended one in which such injustice, violence, and fraud were practised."

These two pictures of the Convention, drawn from different standpoints, give us some idea of the kind of men that had ruled Tennessee for four years. At last the household was divided against itself; it was only a matter of a few weeks until it should fall.

The Senter faction attempted to throw the blame for the disrupted Convention upon Mr. Stokes and his friends. They denied the charge, and asserted that at least sixty-four counties had been instructed for Mr. Stokes, which would have insured him the nomination. The result of the discussion was that Governor Senter and Mr. Stokes declared their intentions to "fight it to a finish at the polls." They began at Nashville, January 5th, a joint canvass of the State. A direct issue was soon made between them on the

franchise question. Governor Senter declared "that the time has come, and is now, when the limitations and disabilities which have found their way into our statute-books, as the result of the war, should be abolished and removed, and the privilege of the elective franchise be restored, and extended so far as to embrace the mass of the adult population of the State."

Mr. Stokes thus defined his position: "When the killing of Union men ceases, the hellish organization of Ku-Klux is abandoned, and the laws are observed, then I am willing to entertain a proposition to amend the State constitution so far as to allow the disfranchised to come in gradually, by providing that the Legislature may by a two thirds vote remove the disabilities for those who petition, and come well recommended by their loyal neighbors."

After these declarations of principles the struggle became one of paramount importance to the whole people of the State.

As the time for the election approached, and the official registration began, signs of uneasiness appeared among the supporters of Mr. Stokes. They felt confident that the majority of the Radical votes were for their candidate, but they realized that Governor Senter was "master of the situation." He had control of the same machinery Governor Brownlow had employed so successfully in changing the results of Congressional and State elections. Would Governor Senter use this in his own behalf, thus destroying the Radical party with an instrument of their making? This question was asked and discussed both upon the stump and in the newspapers.

The election occurred on the 5th day of August. At the same time the election for the State Legislature was held. The issue was the same as in the gubernatorial contest—that is, universal suffrage or continued disfranchisement. Contrary to expectations, the election passed without

any serious conflicts or disturbances of the peace. The result was not long in doubt. It could be seen on the following day from the partial returns that Governor Senter had been elected by an enormous majority.

The official returns were as follows:

	SENTER.	STOKES.
East Tennesssee.....	23,877	22,471
Middle "	58,646	19,149
West "	37,681	13,209
	120,204	54,874
	54,874	
Senter's majority.....	65,330	

The Conservative candidates to the Legislature, who stood upon the same platform as Governor Senter, were elected almost to a man.

Immediately after election, Mr. Stokes and his friends raised the cry of fraud. They lost no time in hurrying to Washington in order to bring pressure to bear upon President Grant to declare the election void. Mr. Stokes set forth his claims in a lengthy interview. He said in part: "Governor Senter being governor or acting-governor had the appointment of the registrars of the election. He put in such men as he thought would do his bidding. They at once opened the flood-gates and let everybody in, the disfranchising clauses of the Constitution were trodden under foot and entirely disregarded, certificates of qualification as voters were issued to disfranchised rebels, and even boys of sixteen and seventeen were allowed to vote. Besides this there was a course of intimidation pursued under the instruction of Senter which prevented hundreds of Republicans from voting. You see Senter was governor. He had militia and intended to use them, if necessary, to elect him-

self. In many cases where the rebels had the upper hand the Republicans, especially the negroes, could not vote in their precincts for fear of violence. What defeated me was the rebels who were disfranchised under the constitution. I got 56,000, which was Grant's vote last fall. Seymour's was 33,000 last fall, but Senter's vote was this time 119,000. The 86,000 additional which Senter got were rebels and minors."

These charges made by Mr. Stokes were replied to in the daily press by Governor Senter. He claimed that it was unfair to compare the vote in the recent election with the presidential election of the previous fall. In the presidential election the Republicans were sure of the result in the State, so they had made no effort to bring out a full vote. It would be much fairer to take the vote cast in the gubernatorial election of 1867 as the standard by which to measure the result of the recent election. In 1867, Governor Brownlow's vote was 19,900 more than Mr. Stokes had received, yet the registration of 1867 exceeded the vote cast by over 20,000. The old registration law was still in force, but had been modified by a decision of the Supreme Court which admitted at least 40,000 votes which had been kept out in 1867. In other words, Mr. Senter claimed he could have received a majority of 20,000 had there been no new registration. The newly appointed registrars, referred to in Mr. Stokes's interview, were, with the exception of three tenths, regularly discharged Federal soldiers.

Mr. Stokes in his efforts to secure Federal intervention was supported by all the Radical leaders. Many of those who had supported Governor Senter in the election were now most active in the attempt to prevent his induction into office. Among the first to change front was Mr. Brownlow. Early in the contest he had favored the nomination of Governor Senter. After the disruption of the Radical Convention, he still continued to support Governor

Senter. It was not until after election that he seemed to realize that Governor Senter's victory meant the return to power of the ex-Confederate and consequently the downfall of Radical domination.

President Grant turned a deaf ear to the entreaties of the Radical leaders. They sought Congressional action, but met defeat here also, as Congress passed a resolution thanking President Grant for his refusal to interfere with affairs in Tennessee.

CHAPTER XI

CONSTITUTIONAL CONVENTION OF 1870

While the Radical leaders were engaged in their futile efforts at Washington to obtain Federal intervention, the Legislature convened at Nashville, and Governor Senter was inaugurated with the usual ceremony. Both the Governor and the Legislature manifested a desire to fulfill their election pledges, by restoring the franchise to the ex-Confederates, but the manner in which this should be accomplished was not at first very apparent.

In the Constitution, as it was prior to the war, the suffrage qualifications had been clearly stated and no power had been vested in the Legislature to alter them. It was in virtue of the amendments adopted by the Radical Convention of 1865, that the Legislature had passed the disfranchising acts of 1866 and 1867.

The simple repeal of these acts would have re-enfranchised the ex-Confederates, but it would have left unsettled a number of perplexing problems resulting from the war. It was felt that the solution of these questions should not be left to the Legislature, as its members were all Union men, and therefore did not represent the whole political body. It was also recognized that the questions to be settled were of a constitutional character, and could be properly dealt with only by a constitutional Convention.

These considerations led to the passage of an act which authorized the Governor to put to a vote of the people the question of holding a constitutional Convention. At the same election delegates were to be chosen. Every male person not convicted of infamous crime, of the age of

twenty-one, and a citizen of the United States, and a citizen of the State of Tennessee was allowed to vote. The election was held on the 3d of December and resulted in a large majority in favor of the Convention.

The first constitutional Convention in the history of the State was the one which had met in Knoxville, and framed the Constitution under which Tennessee had been admitted into the Union.[1] Conspicuous among the members of the first Convention were John Sevier and Andrew Jackson. The constitution they adopted was modelled after that of the mother State, North Carolina. In 1834, a second Convention met at Nashville, and modified the old Constitution, so as to bring it into harmony with the industrial changes of the first quarter of a century. The next assertion of constituent powers was in 1861, when the Legislature passed the Declaration of Independence, and the Ordinance of Union with the Confederacy. In 1865, the Radical Convention, as we have seen, framed a number of constitutional amendments.

The newly elected convention assembled at Nashville on the 10th day of January. The character of its members was a guaranty that its action would be Conservative. It has been pronounced the most intelligent body ever elected in Tennessee for any purpose. John C. Brown, an ex-major-general of the Confederate army, was elected to preside over its deliberations. As the Authorization Act did not limit the power of the Convention, it was at liberty to enter into a thorough-going provision of the constitution, but it manifested from the start the intention to confine itself to the task of settling the question growing out of the war. Chief among these was negro suffrage.

The Fifteenth Amendment to the Constitution of the United States had not yet been adopted, so it was still in the power of the State to withhold the franchise from

[1] Caldwell's "Studies in the Constitutional History of Tennessee."

the negro. In the discussion of this suffrage question, the Convention was divided into three factions. The Union delegates, who were greatly in the minority, favored universal suffrage. The extreme opposite opinion was expressed in the minority report of the Suffrage Committee: "We hold that the negro race is the lowest order of human beings, incapable in themselves of a virtuous intelligence, or free government; and for the truth, we appeal to history, and challenge the world to show a single exception. We hold that the inferiority of the negro to the white man, in race, color, and capacity for permanent, well-ordered government has been fixed by Him who 'doeth all things well,' and whose natural or revealed law has never been violated by any human government without disaster and confusion."

In the abstract, the above statement undoubtedly represented the view of a majority of the delegates. But the conservative men of the Convention recognized that the rejection of negro suffrage would strengthen the Radicals in their efforts to obtain Federal intervention. Considerations of political expediency led, therefore, to the adoption of the following provision in regard to suffrage: "Every male person of the age of twenty-one years, being a citizen of the United States, and a resident of this State for twelve months, and of the county wherein he may offer his vote, for six months next preceding the day of election, shall be entitled to vote for members of the General Assembly, and all civil officers of the county or district in which he resides, and there shall be no qualification attached to the right of suffrage, except that each voter shall give to the judge of the election, where he offers to vote, satisfactory evidence that he has paid the poll taxes assessed against him for such preceding period as the Legislature shall prescribe, and at such time as may be prescribed by law, without which his vote cannot be received."[1]

[1] *Journal of the Constitutional Convention of 1870.*

After fixing the suffrage qualifications, all the important changes in the constitution proposed by the Convention, were directed, with possibly two exceptions, towards the prevention of the recurrence of the political abuses, from which the State had suffered under the Radical administration. Fresh in the minds of all were the arbitrary acts of Governor Brownlow in suspending the writ of habeas corpus, and proclaiming martial law. A number of limitations were, therefore, placed upon the military power of the Governor. It was provided that "the militia shall not be called into service except in case of rebellion or invasion, and then only when the General Assembly shall declare by law that the public safety requires it." The Bill of Rights was so amended that "the writ of habeas corpus shall not be suspended, unless when, in case of rebellion or invasion, the General Assembly shall declare the public safety requires it."

Another flagrant abuse under Radical rules had been the too frequent meeting of the Legislature. During the four years of Governor Brownlow's administration, it had been in almost continuous session. To remedy this, regular sessions were made biennial, and it was provided that no member "shall be paid for more than seventy days of the regular session, or for more than twenty days of an extra or called session."

The two important changes in the constitution, which had no relation to the disturbed political conditions resulting from the war, were the creation of a homestead exemption, and the delegation to the Legislature of the power to pass general laws for the organization of private corporations.

Having completed its labors, the Convention proceeded to the Capitol, and, in the presence of both Houses of the Legislature, it placed the revised constitution in the hands of the Governor. By him it was submitted to a vote of the

people, and ratified by a vote of 98,128 for, to 33,872 against.

At the first State election that occurred under the provisions of the new Constitution, the Democrats regained political control of the State. This ended the Reconstruction Period in Tennessee.

AUTHORITIES.

Acts of Tennessee: Extra Session, 1861; 2d Extra Session, 1861; 1861-62; 1865; 1865-66; Extra Session, 1866; 1868; 1869; 1869-70; 1870; 1870-71; 1871; 1872; 1873; 1875; 1877; 1879; 1881. Extra Session, 1881; 1882; 1883.

BARNES, W. H. "History of the Thirty-ninth Congress."

BATE, W. B. Messages to the General Assembly.

BLAINE, JAMES G. "Twenty Years of Congress."

BROWN, JOHN C. Messages to the General Assembly.

BROWNLOW, W. G. "Sketches of the Rise, Progress, and Decline of Secession, with a Narrative of Personal Experiences among the Rebels." Philadelphia, 1862.

CALDWELL, JOSHUA W. "Studies in the Constitutional History of Tennessee." Cincinnati, 1895.

COX, S. S. "Three Decades of Federal Legislation."

DUNNING, W. A. "Essays on the Civil War and Reconstruction." New York, 1898.

EVERETT, EDWARD. "Account of the Fund for the Relief of East Tennessee." Boston, 1864.

HARRIS, ISHAM G. Messages to the General Assembly.

HAWKINS, ALVIN. Messages to the General Assembly.

House Journals for 1865, 1865–66, 1866. Extra Session, 1866, 1867–68. Extra Session, 1868, 1868–69, 1869–70.

HUMES, THOMAS WILLIAM. "The Loyal Mountaineers of Tennessee." Knoxville, 1888.

Journal of the Constitutional Convention of 1870.

Knoxville Whig, Knoxville, Tennessee.

MARK, ALBERT. Messages to the General Assembly.

MACPHERSON, EDWARD. "History of the Rebellion."

MACPHERSON, EDWARD. "History of the Reconstruction."

MILLER, CHAS. A. "The Official and Political Manual of the State of Tennessee." Nashville, 1890.

Report of the Committee Appointed to Investigate the State Debt. Appendix to the *Senate Journal* for 1879.

SCOTT, W. A. "The Repudiation of State Debts." New York, 1893.

Senate Journal for 1865, 1866, 1867-68, 1868-69. Extra Session, 1868.

SENTER, DE WITT. Message to the General Assembly.

TOWNSEND'S Records of the Great Rebellion.

The Union and American, Nashville.

"Why the Solid South?" Hilary Herbert, Baltimore, 1890.

WILSON, HENRY. "History of the Rise and Fall of the Slave Power."

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